



Original: **French**

No.: ICC-02/05
Date: 27 July 2007

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

SITUATION IN DARFUR, SUDAN

Public Document

Request under Regulation 135 (2) of the *Regulations of the Registry* and Regulation 83 of the *Regulations of the Court* for Review of the Registrar's Decision of 26 June 2007 Denying Payment of Fees for November 2006

The Office of the Prosecutor
Mr Luis Moreno-Ocampo
Ms Fatou Bensouda
Mr Andrew Cayley

Former Ad Hoc Counsel for the Defence
Mr Hadi Shalluf

1. Pursuant to regulation 135 (2) of the *Regulations of the Registry* and regulation 83 of the *Regulations of the Court*, the former Ad Hoc Counsel for the Defence in the situation in Darfur requests a review of the Registry's decision of 26 June 2007 denying payment of his fees for November 2006 and notified on 14 July 2007 ("Registry's Decision of 26 June 2007").¹
2. Considering that the decision of 26 June 2007 was issued as a result of the letter I addressed to the Registrar on 20 June 2007.²
3. Considering that the Registrar's reply of 26 June 2007 states that [TRANSLATION] "in your letter dated 14 March 2007, you specifically recognize that your statement of hours worked for November 2006 had been processed, but not paid, as appears in the response of 6 March 2007 filed before Pre-Trial Chamber I, which you had requested to review the decision issued by my services not to pay the fees for activities beyond the scope of your mandate."
4. The Registrar claims that I was aware that my fees for the month of November 2006 would not be paid because I noted in my submission in response dated 12 March 2007 that my fees for November 2006 had not been paid.³ The Registrar however, whilst stating this in his response dated 6 March 2007, took no decision concerning November in accordance with regulation 135(1) of the *Regulations of the Registry*, a decision I could have challenged before the Court by way of request for review.

¹ Registrar's decision dated 26 June 2007.

² Copy of letter dated 20 June 2007.

³ ICC-02/05-63 "Request for the Intervention and Advice of the Prosecutor in the Proceedings initiated by Ad Hoc Counsel for the Defence by way of his 'Request for Review of the Registry's Decision of 13 February 2007'".

5. In his decision dated 13 February 2007 the Registrar makes no reference to the fees for the month of November 2006. In fact, his decision of 13 February 2007 only pertains to the non-payment of the December 2006 and January 2007 fees.⁴

6. The Registrar had not issued any decision concerning November 2006 until his decision of 26 June 2007, reference DVC/0081/2007/DDP which now gives me the right to request the Chamber to review it.

7. Why did the Registrar not mention it in his decision of 13 February 2007 if he did not agree to pay my fees for November 2006? His decision only concerns December 2006 and January 2007, and on 27 February 2007, I requested the Chamber to review it.

8. The Registrar cannot ignore the application of regulation 135(1) of the *Regulations of the Registry* which stipulates that **“the Registrar shall take a decision on any dispute concerning the calculation and payment of fees or the reimbursement of expenses at the earliest possible juncture and notify counsel accordingly.”** Above text compels the Registrar to take a decision “at the earliest possible juncture” and compels him to notify counsel of the decision through the channels provided for this purpose by the Court.

9. Indeed, as a result of my request for review of the Registry’s decision of 13 February 2007, on 15 March 2007, Pre-Trial Chamber I ruled on the months of December 2006 and January 2007 only.⁵

10. The Registrar did not issue any decision concerning November 2006 until his reply of 26 June 2007 notified by email on 14 July 2007.

⁴ Copy of the decision dated 13 February 2007.

⁵ ICC-02/05-66 “Decision on the Request for Review of the Registry’s decision of 13 February 2007”.

11. Hence, the Registrar's Decision of 26 July 2007 is the only decision which gives me standing to submit this request for review to the Chamber under regulation 135 (2) of the *Regulations of the Registry*.

12. The Registrar is wrong to claim that my contact on 17 April 2007 with the Honourable Judge René BLATTMANN, Vice-President of the Court, amounts to a request for review.⁶

13. And yet, the Registrar knows very well that my contact with judge BLATTMANN, Vice-President of the Court, in no way amounts to a request for judicial review for the following reasons:

- a) Requests for review can only be made before the Chamber, in accordance with regulation 135 (2) of the *Regulations of the Registry* and pursuant to regulation 83 of the *Regulations of the Court*.
- b) On 28 March 2007, at the seminar for counsel, Judge BLATTMANN, Vice-President of the Court, authorised me, in his personal capacity, to contact him concerning my problems with the Registry.
- c) The Registry did not issue any decision concerning November 2006 which would have entitled me to request a review.
- d) Judge BLATTMANN is not a chamber provided by regulation 135(2) of the *Regulations of the Registry*.
- e) In my letter to Judge BLATTMANN, I asked him for his opinion and intervention in finding a conciliatory solution for all my unpaid fees, including December 2006 and January 2007.
- f) In his reply of 11 May 2007, Judge BLATTMANN asked the Registry whether there was a solution.⁷

⁶ Copy of the letter addressed to Judge René Blattmann, Vice-President of the Court, dated 17 April 2007.

- g) Following the reply of the Court's Vice-President, I made a request to the Registrar on 20 June 2007 to obtain a decision concerning my fees for November 2006.

Considering that the Registrar violated regulation 135(1) of the *Regulations of the Registry*, which provides that **“the Registrar shall take a decision on any dispute concerning the calculation and payment of fees or the reimbursement of expenses at the earliest possible juncture and notify counsel accordingly”**.

Considering that on 13 February 2007, the Registrar issued his decision denying payment of my fees for December 2006 and January 2007.

Considering that, in that decision, no reference was made to November 2006, and that, as a result, he took no decision concerning November 2006.

Considering that the Registrar may only take decisions in accordance with regulation 135(1) of the *Regulations of the Registry* which provides that **“the Registrar shall take a decision on any dispute concerning the calculation and payment of fees or the reimbursement of expenses at the earliest possible juncture and notify counsel accordingly”**.

Considering that regulation 135(1) of the *Regulations of the Registry* provides that the Registrar must take his decision at the earliest possible juncture and that the Registrar did not fulfill this requirement,

Considering that the Registrar could have taken a decision as early as December 2006 concerning the payment of my fees for November 2006, but did not, and, as a result, violated regulation 135(1) of the *Regulations of the Registry*.

⁷ Copy of the reply of the Vice-President of the Court, dated 11 May 2007.

Moreover, the Registrar could have decided not to pay my fees for the month of November 2006 in his decision of 13 February 2007, but did not, and, as a result, violated regulation 135(1) of the *Regulations of the Registry*.

In the decision of 13 February 2007, the Registrar only took a decision concerning the months of December and January 2007, a decision upheld by Pre-Trial Chamber I.

Considering that the only decision taken by the Registrar concerning November 2006 is his decision of 26 June 2007,

Considering that that decision violates regulation 135(1) of the *Regulations of the Registry* which provides that “**the Registrar shall take a decision on any dispute concerning the calculation and payment of fees or the reimbursement of expenses at the earliest possible juncture and notify counsel accordingly**”,

Accordingly, I have the honour of requesting a review of the Registrar’s Decision of 26 June 2007 and of requesting the Court to rule on my fees for the month of November 2006 and to order the Registry to pay them.

Mr Hadi Shalluf
Former Ad Hoc Counsel for the Defence

Dated this 27 July 2007

At Paris, France