

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/04
Date: 19 February 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Ekaterina Trendafilova

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Public

Prosecution's Observations on the "Notification of the Board of Directors of the Trust Fund for Victims"

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Éric MacDonald, Trial Lawyer

**The Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keïta

The Office of Public Counsel for Victims
Ms Paolina Massidda, Principal Counsel

Background

1. On 28 January 2008, the Board of Directors of the Trust Fund for Victims (the "Board of Directors") notified the Chamber, in accordance with Regulation 50 of the Trust Fund for Victims,¹ that the Board of Directors had assessed and evaluated the needs for activities to be undertaken in the Democratic Republic of the Congo (the "DRC") for the benefit of victims and their families.²
2. On 18 February 2007, the Office of the Public Counsel for Victims filed its, "Observations du représentant légal des victimes a/101/06 et a/0119/06 suite à la notification du Conseil de direction du Fonds au profit des victimes conformément à la règle 50 du Règlement du Fonds."³

Prosecution's Submissions

3. The Prosecution recognises the important role of the Trust Fund for Victims within the unique system established by the Rome Statute frame-work enabling victims, who suffered harm from crimes falling under the jurisdiction of the Court, for the first time to seek reparations or secure other forms of assistance. The mandate of the Trust Fund for Victims, which is overseen by its Board of Directors, includes the designing of projects with the aim of benefiting larger groups of victims and their families by means of the Trust Fund's "other resources."⁴

¹ ICC-02/04-114.

² According to Regulation 50 of the Regulations of the Trust Fund for Victims, the Board of Directors of the Trust Fund shall notify the relevant Chamber before undertaking activities which imply the use of "resources other than those collected from awards for reparations, fines and forfeitures" (see paragraph 1 of the Notification, as well as Regulation 47 of the Regulations of the Trust Fund for Victims).

³ ICC-02/04-118.

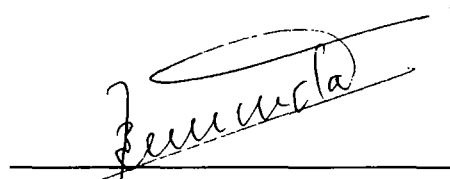
⁴ See Regulation 47 and 48 of the Regulations of the Trust Fund for Victims.

4. The Prosecution notes that the discretion of the Board of Directors of the Trust Fund for Victims in selecting projects benefiting victims and their families using “other resources of the Trust Fund”⁵ is limited only in that a project may not “pre-determine any issue to be determined by the court, including the determination of jurisdiction pursuant to Article 19, admissibility pursuant to Articles 17 and 18, or violate the presumption of innocence pursuant to Article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.”⁶
5. The projects presented in the confidential annex to the Notification were outlined in rather broad and general terms, targeting groups of individuals who were identified by the Board of Directors of the Trust Fund for Victims as having suffered harm as a result of the commission of any crime within the jurisdiction of the Court, thereby meeting the definition of victims established by Rule 85 of the Rules of Procedure and Evidence. None of the projects on their face target specific victims, or those victim applicants aiming to participate in the proceedings of the situation.
6. The Prosecution submits that, since the projects are aimed at benefiting general groups of victims and not specific individuals participating in the proceedings of the situation, the analysis of the information does not suggest that the projects envisaged by the Board of Directors of the Trust Fund for Victims could pre-determine any issue to be determined by the court, violate the presumption of

⁵ Regulation 48 and Regulation 50(a)(i) of the Regulations of the Trust Fund for Victims.

⁶ See Regulation 50(a)(ii) of the Regulations of the Trust Fund for Victims.

innocence or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.


Luis Moreno-Ocampo
Prosecutor

Dated this 19th day of February 2008
At The Hague, The Netherlands