

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/05

Date: 2 April 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Single Judge

**SITUATION UGANDA
IN THE CASE OF
*THE PROSECUTOR v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO,
DOMINIC ONGWEN***

Public

**Request for leave to file observations to the “Prosecution’s Response to Defence’s
Request for Leave to Appeal the Single Judge’s 14 March 2008 Decision on the
Applications for Participation in the Proceedings”**

Source: Office of Public Counsel for Victims

Ms Paolina Massidda

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor

Ad hoc Counsel for the Defence

Ms Michelyne C. St. Laurent

Legal Representative of Victims

a/0101/06, a/0119/06

Ms Paolina Massidda

Legal Representative of Victims

a/0090/06, a/0098/06, a/0112/06, a/0118/06,
a/0122/06

Ms Adesola Adeboyejo

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Bruno Cathala

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL BACKGROUND

1. On 10 August 2007, the Single Judge issued the “Decision on victims’ application for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06” granting the status of victims in the context of the situation to applicants a/0101/06 and a/0119/06.¹ The decision requested the Office of Public Counsel for Victims (the “Office” or the “OPCV”), *inter alia*, to continue to provide support and assistance to victims and applicant victims.² The decision also requested the Registry to assist the victims authorised to participate in the situation and in the case to appoint a common legal representative.

2. On 28 August 2007, the Single Judge issued the “Decision on legal representation of victims a/0101/06 and a/0119/06”³, appointing the Principal Counsel of the Office as legal representative for the purpose of filing, on behalf of the said victims, a response to the Prosecution’s application for leave to appeal the decision on participation rendered on 10 August 2007.

3. On 14 March 2008, the Single Judge issued the “Decision on victims’ application for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0100/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06” granting applicants a/0065/06, a/0068/06, a/0093/06, a/0096/06, a/0117/06, a/0120/06 and a/0123/06 the status of victims in the context of the situation in Uganda⁴ (the “Decision”). The Decision requested the Office, *inter alia*, to continue to

¹ See the “Decision on victims’ application for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06”, No. ICC-02/04-101, 10 August 2007.

² *Ibid.*, par. 164.

³ See the “Decision on Legal Representation of Victims a/101/06 and a/0119/06”, No. ICC-02/04/105, 28 August 2007.

⁴ See the “Decision on victim's application for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0101/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06, No. ICC-02/04-124-Conf-Exp, 14 March 2008.

provide support and assistance to victims and applicant victims.⁵ The decision also requested the Registry to assist the victims authorised to participate in the situation and in the case to appoint a common legal representative. A common legal representative has not been appointed yet.

4. On 25 March 2008, the *ad hoc* Counsel for the Defence filed the “Requête de la Défense sollicitant l’autorisation d’interjeter appel de la ‘Decision on victims’ applications for participation’ rendue le 14 mars 2008” (the “Defence’s Application”), requesting leave to appeal the Decision.⁶

5. On 31 March 2008, the Prosecution filed the “Prosecution’s Response to Defence’s Request for Leave to Appeal the Single Judge’s 14 March 2008 Decision on the Applications for Participation in the Proceedings” (the “Prosecution’s Response”).⁷

II. REQUEST OF THE OPCV FOR LEAVE TO FILE A RESPONSE TO THE DEFENCE’S APPLICATION

6. In accordance with regulation 24(2) of the Regulations of the Court, victims or their legal representatives may file a response to any document when they are permitted to participate in the proceedings in accordance with article 68(3) of the Rome Statute and rule 89(1) of the Rules of Procedure and Evidence.

7. The Office submits that pending the designation of a common legal representative, the Principal Counsel of the OPCV may be appointed by the Single Judge for the purpose of filing a response to the Defence’s Application, as it was

⁵ *Ibid.*, p. 73.

⁶ See the “Requête de la Défense sollicitant l’autorisation d’interjeter appel de la ‘Decision on victims’ applications for participation’ rendue le 14 mars 2008”, No. ICC-02/04-128, 25 March 2008.

⁷ See the “Prosecution’s Response to Defence’s Request for Leave to Appeal the Single Judge’s 14 March 2008 Decision on the Applications for Participation in the Proceedings”, No. ICC-02/04-129, 31 March 2008.

already the case when the Single Judge appointed the Principal Counsel of the Office to respond to the Prosecution's application for leave to appeal the decision on participation issued on 10 August 2007.⁸

8. This designation would conform, in the Office's opinion, with the wording of the Single Judge's Decision requesting the Office to continue to provide support and assistance to the victims concerned by the Decision.

9. Indeed, in the absence of an appointed common legal representative, the victims will not be able to provide their views and concerns on the Defence's Application and they will be *de facto* deprived of their rights to file a response in accordance with regulation 24 (2) of the Regulations of the Court.

FOR THE FOREGOING REASONS, the Principal Counsel respectfully requests the Single Judge to appoint her as legal representative for the victims authorised to participate in the case *The Prosecutor v. Joseph Kony et al.* until a common legal representative is chosen by the victims and to grant her leave to file observations on the Prosecution's Response in a time limit indicated by the Single Judge.



Paolina Massidda
Principal Counsel
Office of Public Counsel for Victims

Done in English

Dated this 2nd day of April 2008

At The Hague (The Netherlands)

⁸ See the "Decision on legal representation of victims a/0101/06 and a/0119/06", *supra* note 3, p. 5.