

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05 OA OA2 OA3

Date: 23 June 2008

THE APPEALS CHAMBER

Before: Judge Navi Pillay, Presiding Judge
Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Sang-Hyun Song
Judge Erkki Kourula

SITUATION IN DAFUR, SUDAN

Public Document

Prosecution's Response to Legal Representative of Victim's Request to Participate in OPCD's Appeal against the 3 December 2007 Decision on Production and Disclosure of Material and in the Appeals of the Prosecution and OPCD against the 6 December 2007 Decision on the Victims' Applications for Participation in the Proceedings

Source: [The Office of the Prosecutor]

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

The Office of the Prosecutor

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Legal Representatives of Victims

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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REGISTRY

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Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Procedural History

1. On 11 March 2008, the legal representative of a number of victims and applicants applied¹ to participate in a series of three appeals by the Prosecution and OPCD relating to victim participation in the situation.²
2. On 20 March 2008, Prosecution filed a response to that Application to Participate, and refers to the detail procedural history set out therein.³
3. On 18 June 2008, the Appeals Chamber granted those victims who have been recognised as such in the situation the right to present their views and concerns regarding their personal interests in the issues raised in the appeals, by 25 June 2008. The Prosecution and OPCD were granted until 3 July 2008 to respond⁴
4. On 19 June 2008, the legal representatives filed an application for extension of the page limit for the observations.⁵ The Appeals Chamber ordered the parties to respond by 12:00 noon on 23 June 2008.⁶ The Prosecution hereby files its response to the Application for Extension of the Page Limit.

Submissions

5. The legal representatives seek an extension of the page limit from 20 pages to 40 pages, on the basis that they are presenting observations in relation to three different appeals.⁷ The Prosecution acknowledges that the submission of consolidated observations on three separate appeals, albeit on issues which overlap to a high degree,⁸ may warrant an extension of the page limit.
6. However the Prosecution also notes that legal representatives submit that “the Prosecution and the Defense raised numerous issues which need to be challenged one by one”.⁹ In this regard, the Prosecution recalls that the Appeals Chamber

¹ ICC-02/05-134 OA2 OA3 (“Application to Participate”).

² ICC-02/05-119 OA (“OPCD’s First Appeal Brief”), appealing against ICC-02/05-110; ICC-02/05-125 OA2 (“Prosecution’s Appeal Brief”) and ICC-02/05-126 OA3 (“OPCD’s Second Appeal Brief”), appealing against ICC-02/05-111-Corr.

³ ICC-02/05-135 OA OA2 OA3.

⁴ ICC-02/05-138 OA OA2 OA3

⁵ ICC-02/05-139 OA OA2 OA3 (“Application for Extension of the Page Limit”).

⁶ ICC-02/05-140 OA OA2 OA3.

⁷ Application for Extension of the Page Limit, paras. 12-13.

⁸ ICC-02/05-135 OA OA2 OA3, paras. 14-15; see also ICC-02/05-138 OA OA2 OA3, para. 27.

⁹ Application for Extension of the Page Limit, para. 13.

“limit[ed] the victims to presenting their views and concerns respecting their personal interests solely to the issues raised on appeal. Observations to be received by the victims must be specifically relevant to the issues arising in the appeal and to the extent that their personal interests are affected by the proceedings.”¹⁰

7. The Prosecution has also previously submitted, “the purpose is to present the views and concerns of the victims relating to this issue: the filing is not a legal response to the brief filed by the Appellant; their role is to provide the Appeals Chamber with the views of the victims on the issue under appeal, not to refute particular legal arguments”.¹¹ As a result, the Prosecution submits that “challeng[ing] one by one” legal arguments raised by the parties is not the proper purpose nor role of victims’ observations.

Conclusion

8. For the reasons referred to above, the Prosecution does not oppose the Application for Extension of the Page Limit, but respectfully submits that the observations should be limited to the considerations mentioned in paragraph 6 above .



 Fatou Bensouda, Deputy Prosecutor

Dated this 23rd day of June, 2008

At The Hague, the Netherlands

¹⁰ ICC-02/05-138 OA OA2 OA3, para. 62.

¹¹ ICC-02/05-135 OA OA2 OA3, footnote 57; see also *Prosecutor v Lubanga*, ICC-01/04-01/06-925 OA8, 13 June 2007, Separate Opinion of Judge Pikis, paras. 15-16.