



Original: **English**

No.: **ICC-02/05**
Date: **18 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 DARFUR, SUDAN

**Public Document
URGENT**

Request of the Legal Representatives of Victims a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 for extension of page limit to file their response to the Interlocutory Appeals of the Office of the Prosecutor and Office of Public Counsel for the Defence

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

Counsel for the Defence

Legal Representatives of Victims

a/0011/06 to a/0015/06, a/0021/07,
a/0023/07 to a/0033/07 and a/0035/07 to
a/0038/07

Ms Wanda M. Akin
Mr Raymond M. Brown

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**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. BACKGROUND

1. On 6 December 2007, the Single Judge of Pre-Trial Chamber I issued the “Decision on the Applications for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07”¹, granting the status of victims in the situation of Darfur, Sudan, to applicants a/0011/06, a/0012/06, a/0013/06, a/0015/06, a/0023/07, a/0024/07, a/0026/07, a/0029/07, a/0036/07, a/0037/07 and a/0038/07.²
2. On 23 January 2008, the Single Judge of Pre-Trial Chamber I issued the “Decision on the Request for leave to appeal the “Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86(2)(e) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor”³, granting the Office of Public Counsel for the Defence’s (the “OPCD”) request for leave to appeal in relation to the following issues:

“whether article 68(3) of the Statute can be interpreted as providing for a ‘procedural status of victim’ at the investigation stage of a situation and the pre-trial stage of a case; and (i) if so, whether rule 89 of the Rules and regulation 86 of the Regulations provide for an application process which only aims to grant the procedural status of victim and is thus distinct and separate from the determination of the procedural rights attached to such status; and what are the specific procedural features of the application process? Or (ii) if not, how applications for participation at the investigation stage of a situation and the pre-trial stage of a case must be dealt with.”⁴

¹ See the “Decision on the Applications for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07” (Pre-Trial Chamber I), No. ICC-02/05-111, 6 December 2007. See the “Corrigendum to decision on the Applications for participation in the proceedings of applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07, and a/0035/07 to a/0038/07”, No. ICC-02/05-111-Corr, 14 December 2007.

² *Ibid.*, p. 23.

³ See the “Decision on the Request for leave to appeal the “Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86(2)(e) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor” (Pre-Trial Chamber I), No. ICC-02/05-118, 23 January 2008.

⁴ *Ibid.*, p. 8.

3. On 4 February 2008, the OPCD filed its document in support of the appeal on the “Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86(2)(e) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor”.⁵
4. On 6 February 2008, the Single Judge of Pre-Trial Chamber I issued the “Decision on the Requests for Leave to Appeal the Decision on the Application for Participation of Victims in the Proceedings in the Situation”⁶, granting the Prosecution and the OPCD requests for leave to appeal in relation to the following issues:

“whether a procedural status of victim can be granted in the proceedings, independent of victims who are granted the right to participate within the terms of Article 68(3) and Rule 89, and provides for a definition of the personal interests diverting from the Appeals Chamber jurisprudence; and

whether it is possible to grant victims a general right to participate, or whether victim participation is conditioned upon a determination concerning the impact of a specific proceedings on the personal interest of the applicants, and an assessment as to the propriety of their participation.”⁷

5. On 18 February 2008, the Prosecution⁸ and the OPCD⁹ filed their respective documents in support of their appeals on the “Decision on the Applications

⁵ See the OPCD’s Appeals Brief on the “Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86(2)(e) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor”, No. ICC-02-05-119, 4 February 2008.

⁶ See the “Decision on the Requests for Leave to Appeal the Decision on the Application for Participation of Victims in the Proceedings in the Situation” (Pre-Trial Chamber I), No. ICC-02/05-121, 6 February 2008 (the “Decision granting leave to appeal”).

⁷ *Ibid.*, pp. 4-5 and 11.

⁸ See the “Prosecution’s Document in Support of Appeal against the 6 December 2007 Decision on the Victims’ Applications for Participation in the Proceedings”, No. ICC-02/05-125, 18 February 2008 (the “Prosecution’s Document in Support of the Appeal”).

for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07".

6. On 29 February 2008, the Appeals Chamber issued two "Order[s] of the Appeals Chamber on the date of filing of applications for participation and on the time of the filing of the responses thereto by the OPCD and the Prosecutor".¹⁰
7. On 10 March 2008, the Legal Representatives of Victims (the "Legal Representatives") filed a "Request of the Legal Representatives of Victims a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/071 to Participate in the Interlocutory Appeals of the Office of the Prosecutor and Office of Public Counsel for the Defence".¹¹
8. On 20 March 2008, the Prosecution filed the "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".¹²

⁹ See the "OPCD Appeal Brief on the "Decision on the Application for Participation in the Proceedings of Applicant a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07", No. ICC-02/05-126, 18 February 2008 (the "OPCD's Appeal Brief").

¹⁰ See the "Order[s] of the Appeals Chamber on the date of filing of applications for participation and on the time of the filing of the responses thereto by the OPCD and the Prosecutor" (Appeals Chamber), No. ICC-02/05-132, 29 February 2008 and No. ICC-02/05-133, 29 February 2008.

¹¹ See the "Request of the Legal Representatives of Victims a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/071 to Participate in the Interlocutory Appeals of the Office of the Prosecutor and Office of Public Counsel for the Defence", No. ICC-02/05-134, 10 March 2008.

¹² See the "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", No. ICC-02/05-135, 20 March 2008.

9. On 20 March 2008, the OPCD filed the “OPCD's Consolidated Response to the Legal Representatives' Application to Participate in the Appeals of 4 February 2008 and 18 February 2008”.¹³
10. On 18 June 2008, the Appeals Chamber issued the “Decision on Victim Participation in the appeal of the Office of Public Counsel for Defense against Pre-Trial Chamber I’s Decision of 3 December 2007 and in the appeals of the Prosecutor and the Office of Public Counsel for the Defense against the Pre-Trial Chamber I’s Decision of 6 December 2007”¹⁴, granting victims a/0011/06, a/0012/06, a/0013/06, a/0015/06, a/0023/07, a/0024/07, a/0026/07, a/0029/07, a/0036/07, a/0037/07 and a/0038/07 to a/0033/07 and a/0035/07 to a/0038/07 the right to participate in the three appeals by filing their submissions by 25 June 2008¹⁵.

II. REQUEST FOR EXTENSION OF PAGE LIMIT

11. In its decision dated 18 June 2008, the Appeals Chamber has recognized that *“this decision is being determined in the context of three appeals”* and that “[V]iewed collectively, the issues concern the manner in which applications by victims to participate at the investigation stage of a situation and the pre-trial stage of a case should be addresses”¹⁶.

¹³ See the “OPCD's Consolidated Response to the Legal Representatives' Application to Participate in the Appeals of 4 February 2008 and 18 February 2008”, No. ICC-02/05-136, 20 March 2008.

¹⁴ See the “Decision on Victim Participation in the appeal of the Office of Public Counsel for Defense against Pre-Trial Chamber I’s Decision of 3 December 2007 and in the appeals of the Prosecutor and the Office of Public Counsel for the Defense against the Pre-Trial Chamber I’s Decision of 6 December 2007” (Appeals Chamber), No. ICC-02/05-138, 18 June 2008.

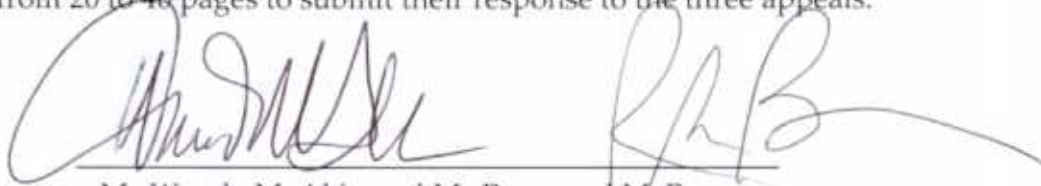
¹⁵ *Ibid.*, para. 63, p. 21.

¹⁶ *Ibid.*, para. 27, p. 11.

12. The Prosecution and the OPCD had the opportunity to put forward their arguments on the issues at stake in three different documents, therefore benefiting of a large number of pages for their submissions.
13. Considering that participation is granted in the three appeals and that the Prosecution and the Defense raised numerous issues which need to be challenged one by one, the Legal Representatives submit that they should be allowed to present their views and concerns comprehensively in all the three appeals. As a consequence, they submit that the page limit of 20 pages prescribed by regulation 37(1) of the Regulations of the Court is not sufficient to deal with all issues raised by the Prosecution and the OPCD in their respective documents in support of the appeals.
14. The Legal Representatives consider, therefore, that exceptional circumstances justify an order of the Chamber for extension of page limits in order for them to file a response to all the three appeals.

FOR THE FOREGOING REASONS

The Legal Representatives respectfully request that the Appeals Chamber grant them, pursuant to regulation 37(2) of the Regulations of the Court, an extension of page limit from 20 to 40 pages to submit their response to the three appeals.



Ms Wanda M. Akin and Mr Raymond M. Brown
Legal Representatives

Dated this 18th June 2008

At Newark (United States of America)