



Original: **French**

No.: **ICC-02/05**

Date: **13 August 2008**

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, SUDAN

Public Document

With confidential ex parte annexes only available to the Legal Representatives

**Decision on the Indigence of 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**

Source: The Registrar

Decision 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

Legal Representatives of the Victims

Ms Wanda M. Akin
Mr Raymond M. Brown

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

Mr Xavier Jean Keita

REGISTRY

Registrar

Ms Silvana Arbia

Division of Victims and Counsel

Didier Preira

**Victims Participation and Reparations
Section**

Ms Fiona McKay

THE REGISTRAR of the International Criminal Court,

NOTING article 43(6) of the Rome Statute;

NOTING rules 16(1)(b), 16(1)(c) and 90(5) of the *Rules of Procedure and Evidence*;

NOTING regulations 83 to 85 of the *Regulations of the Court*;

NOTING regulations 113 and 131 to 136 of the *Regulations of the Registry*;

NOTING the Decision by Pre-Trial Chamber I of 14 December 2007 entitled “Corrigendum to Decision on the Applications for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/06, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07”,¹ granting Applicants a/0011/06, a/0012/06, a/0013/06 and 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 the procedural status of victim at the investigation stage of the situation in Darfur, Sudan;

NOTING the letter from Ms Wanda M. Akin and Mr Raymond M. Brown (the Legal Representatives) of 15 May 2008 entitled “Situation in Darfur, Sudan - No. ICC-02/05 Request of Victims a/0011/06 to a/0013/06, a/0015/06, a/0023/07, a/0024/07, a/0026/07, a/0029/07, a/0036/07 to a/0038/07 for Legal Aid”;²

¹ ICC-02/05-111-Corr.

² VPRS-LA-2008-025(in) Annex 1 Confidential ex parte.

NOTING the statements regarding the financial situation³ of Applicants a/0023/07, a/0024/07, a/0026/07, a/0036/07, a/0037/07 and a/0038/07, received by the Registry on 27 March 2007, and the statements of Applicants a/0011/06 and a/0013/06, registered by the Registry on 4 June 2008;⁴

NOTING the statements signed on their honour by Applicants a/0011/06 and a/0013/06,⁵ registered by the Registry on 4 June 2007, and by Applicants a/0023/07, a/0024/07 and a/0026/07, received by the Registry on 18 June 2008;⁶

ISSUES THE FOLLOWING DECISION:

CONSIDERING that Pre-Trial Chamber I granted the status of victim to the Applicants on 14 December 2007;⁷

CONSIDERING that the extent of the information provided with applications for legal assistance varies from one applicant to another, and that, accordingly, each application must be considered individually;

Applicants a/0012/06 and a/0015/06

CONSIDERING that Applicants a/0012/06 and a/0015/06 have not provided the Registry with any statement, in whatever form, describing their financial situation, their moveable and immoveable assets, and the number of any dependants;

³ Affidavits to assert eligibility for legal assistance paid by the Court. Annex 2 Confidential ex parte.

⁴ VPRS-LA-2008-029(in) Annex 3 Confidential ex parte.

⁵ VPRS-LA-2008-029(in) Annex 4 Confidential ex parte.

⁶ VPRS-LA-2008-031(in) Annex 5 Confidential ex parte.

⁷ ICC-02/05-111-Corr.

CONSIDERING that these Applicants have failed to provide any reliable information regarding their financial situation, despite repeated requests to this effect from the relevant section of the Court;⁸

CONSIDERING therefore that these applications must at present be rejected for lack of substantiation;

Applicants a/0011/06, a/0013/06, a/0023/07, a/0024/07 and a/0026/07

CONSIDERING the information provided by Applicants a/0011/06, a/0013/06, a/0023/07, a/0024/07 and a/0026/07 relating to their moveable or immoveable assets and to the number of any dependants;

CONSIDERING that a preliminary assessment of the said information under regulation 84(1) of the *Regulations of the Court* suggests, *prima facie*, that the Applicants do not have sufficient means to pay all or part of the costs of their legal representation before the Court;

CONSIDERING, moreover, that Applicants a/0011/06, a/0013/06, a/0023/07, a/0024/07 and a/0026/07 have freely authorised the Registrar *inter alia* to make all necessary enquiries from, in particular, financial institutions and land registries and to have access to any bank accounts held by them;

⁸ VPRS-LA-2008-026(out) Annex 6 Confidential ex parte.

CONSIDERING that, accordingly, these applications should be accepted pending the outcome of the investigation into the Applicants' moveable and/or immoveable assets;

Applicants a/0029/07, a/0036/07, a/0037/07 and a/0038/07

CONSIDERING that Applicants a/0029/07, a/0036/07, a/0037/07 and a/0038/07 have provided details of their moveable and immoveable assets and of the number of any dependants;

CONSIDERING, however, that these particulars do not authorise the Registrar or her representative to make all necessary enquiries from, in particular, financial institutions and land registries and to have access to any bank accounts held by the Applicants;

CONSIDERING that, under regulation 84 of the *Regulations of the Court* and regulation 132(1) of the *Regulations of the Registry*, all persons applying for legal assistance must inform Registrar of their personal financial situation and sign a statement certifying on their honour the accuracy of the information provided, irrevocably authorising the Registrar to take any action required without having to consult the applicants, and undertaking to inform her of any change in their financial situation;

CONSIDERING that such a statement is particularly essential in that the Registrar is responsible for ensuring that funds disbursed for legal assistance are used appropriately, and that it is incumbent upon her to take all appropriate measures to

ensure as far as possible that the information provided is accurate and that every application for legal assistance from the Court is properly substantiated;

CONSIDERING therefore that the application by these Applicants is incomplete and must at present be rejected;

FOR THESE REASONS

DECIDES provisionally to consider Applicants a/0011/06, a/0013/06, a/0023/07, a/0024/07 and a/0026/07 wholly indigent under regulation 85(1) *in fine* of the *Regulations of the Court*, pending the outcome of the investigation into their property and assets;

DECIDES that the extent of the legal assistance to be granted to the Applicants shall be determined on a case-by-case basis in accordance with the modalities for their participation as specified by the competent Chamber;

INVITES Applicants a/0011/06, a/0013/06, a/0023/07, a/0024/07 and a/0026/07 to file an application for legal assistance whenever necessary in order to take any action required to preserve their interests in the proceedings;

DECIDES that she will not at present consider Applicants a/0012/06, a/0015/06, a/0029/07, a/0036/07, a/0037/07 and a/0038/07 indigent, in the absence of (i) information relating to the financial situation, moveable and/or immoveable assets and number of dependants of Applicants a/0012/06 and a/0015/06; and (ii) receipt by the Registry of a statement on their honour authorising the Registrar or

her representative to make all necessary enquiries from, in particular, financial institutions and land registries and to have access to any bank accounts held by Applicants a/0012/06, a/0015/06, a/0029/07, a/0036/07, a/0037/07 and a/0038/07.

DECIDES that this Decision may be reviewed upon receipt by the Registrar of information enabling her to assess the financial situation of Applicants a/0012/06 and a/0015/06, and upon receipt of a signed statement from Applicants a/0012/06, a/0015/06, a/0029/07, a/0036/07, a/0037/07 and a/0038/07 authorising the Registrar or her representative to make all necessary enquiries from, in particular, financial institutions and land registries and to have access to any bank accounts held by them;

INFORMS 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 that they may apply to the Presidency for a review of this Decision within fifteen days of the date of its notification, pursuant to regulation 85(4) of the *Regulations of the Court*.

NOTIFIES this Decision to Ms Wanda M. Akin and Mr Raymond M. Brown as Legal Representatives of 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.

[signed]
Silvana Arbia
Registrar

Dated this 13 August 2008

At The Hague