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

Date: 30 March 2009

PRE-TRIAL CHAMBER II

Before: Judge Hans-Peter Kaul, Single Judge

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

Public Redacted Document

**Prosecution's Observations on the Victims' Applications a/0192/07, a/0194/07,
a/0206/07, a/0209/07, a/0216/07, a/0217/07, a/0219/07, a/0220/07, a/0221/07,
a/0229/07, a/0235/07, a/0237/07, and a/0324/07 for Victim Participation in the
Case**

Source: 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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Ms Michelyne C. Saint-Laurent

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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Ms Paolina Massidda

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REGISTRY

Registrar

Defence Support Section

Ms Silvana Arbia

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Ms Fiona McKay

Background

1. In a Decision of 10 March 2009 (Decision),¹ the then Single Judge granted the Prosecution until 30 March to submit its observations on the applications for participation as victims of applicants a/0192/07, a/0194/07, a/0206/07, a/0209/07, a/0216/07, a/0217/07, a/0219/07, a/0220/07, a/0221/07, a/0229/07, a/0235/07, a/0237/07, and a/0324/07 in the present case.
2. On 23 March 2009, Pre-Trial Chamber II designated Judge Hans-Peter Kaul as Single Judge of Pre-Trial Chamber II responsible for all victims' issues in relation to the present case.²

Criteria for determining victim participation in the Case

3. Pre-Trial Chamber II has held that the assessment whether the criteria of Rule 85(a) are met requires the analysis (i) whether the identity of the applicant as a natural person appears duly established, (ii) whether the events described by each applicant constitute a crime within the jurisdiction of the Court, (iii) whether the applicant claims to have suffered harm, and (iv) whether such harm appears to have arisen "*as a result*" of the event constituting a crime within the jurisdiction of the Court.³
4. The Appeals Chamber clarified that "[f]or the purposes of participation in the trial proceedings, the harm alleged by a victim and the concept of personal interests under article 68(3) of the Statute must be linked with the charges confirmed against the accused".⁴ Hence "*only victims of the crimes charged may participate in the trial*".⁵ The Appeals Chamber further held that "*[i]f the applicant is unable to demonstrate a link between the harm suffered and the particular crimes charged, then even if his or her personal interests are affected by an issue in the trial, it would not*

¹ ICC-02/04-01/05-375, page 9.

² ICC-04/04-01/05-385, page 4.

³ ICC-02/04-01/05-252, para. 12.

⁴ ICC-01/04-01/06-1432 OA9 OA10, paras 2 and 65.

⁵ ICC-01/04-01/06-1432 OA9 OA10, para. 62.

be appropriate under article 68(3) of the Statute read with rule 85 and 89(1) of the Rules for his or her views and concerns to be presented".⁶

5. The Prosecution submits that these considerations apply *mutatis mutandis* at the present stage of the proceedings. Whilst there are no charges confirmed against the suspects, the charges as detailed in the arrest warrants are instrumental for the determination whether or not there is a link between the harm suffered and the particular crimes charged.⁷

Factual analysis of the applications

6. The applications a/0192/07, a/0194/07, a/0206/07, a/0209/07, a/0216/07, a/0217/07, a/0219/07, a/0220/07, a/0221/07, a/0229/07, a/0235/07, a/0237/07, and a/0324/07 are summarized as follows:

- (i) Application a/0192/07 is submitted by a REDACTED year old woman⁸. She asserts that in REDACTED she was abducted and thereafter held hostage until REDACTED by members of the LRA, who made her carry heavy loads. In addition, the applicant claims that she lost REDACTED. She states that she suffered mental pain, anguish, and trauma, which persisted at the time of the application.
- (ii) Application a/0194/07 is submitted by a REDACTED year old woman. She asserts that in REDACTED she was abducted and held hostage by members of the LRA, that she was beaten and made to carry heavy loads and to travel long distances for months. She

⁶ ICC-01/04-01/06-1432 OA9 OA10, para. 64.

⁷ See ICC-01/04-01/06 OA9 OA10, para. 63, stating that "the parameters set forth in the charges define the issues to be determined at trial and limit the Trial Chamber's authority to the determination of those issues. Therefore, any determination of the Trial Chamber under article 68(3) of the Statute read with rules 85 and 89(1) of the Rules, in relation to a victim's status and/or participatory rights which is unrelated to the specific charges against the accused would fall outside this framework."

⁸ The ages referred to in the summaries of the applications reflect the respective age of the applicants at the time of submission of the applications. Repeatedly the ages as indicated on page 3 of the applications are clarified in the portion on "supplementary information".

states that she suffered back and chest pain, anguish and trauma, which persisted at the time of the application.

- (iii) Application a/0206/07 is submitted by a REDACTED year old woman. She asserts that from REDACTED to REDACTED she was abducted and held hostage by members of the LRA, that she was sexually abused, beaten, made to carry heavy loads and to travel long distances. She states that she suffered anguish and chest pain, which persisted at the time of the application, and claims that she missed education.
- (iv) Application a/0209/07 is submitted by the father of a REDACTED year old boy. He states that in REDACTED his son was abducted by the LRA, trained as a soldier, and served as an LRA soldier until REDACTED. The applicant asserts that whilst his son was an LRA soldier he REDACTED, leading to ill-health with mental disturbances, which problems persisted at the time of the application.
- (v) Application a/0216/07 is submitted by REDACTED organisation. The applicant details an attack of the LRA on a camp in Uganda in REDACTED. The applicant states that the LRA looted food of the organisation and burnt down houses.
- (vi) Application a/0217/07 is submitted by a REDACTED year old woman. She asserts that she was abducted by the LRA in REDACTED and was held hostage until REDACTED, and in that period was severely beaten and made to carry heavy loads for long distances. The applicant states that she suffered stomach, chest and back pain, in addition to mental pain, which harm persisted at the time of the application.

- (vii) Application a/0219/07 is submitted by a REDACTED year old woman. She asserts that she was abducted and held hostage by the LRA in REDACTED, and that she was severely beaten, forced to travel unbearable long distances and to carry heavy loads. The applicant states that she suffered back and chest pain, in addition to mental pain, that she suffered a heart attack, and suffers from REDACTED; most of the harm she suffered persisted at the time of the application.
- (viii) Application a/0220/07 is submitted by a REDACTED year old man. He asserts that in REDACTED the LRA destroyed his house and looted REDACTED and household properties. The applicant states that he suffered significant material harm and anguish, which harm persisted at the time of the application.
- (ix) Application a/0221/07 is submitted by a REDACTED year old man. He asserts that in REDACTED he was chased away from his home area by the LRA and could not return until REDACTED, and that his property, including *inter alia* REDACTED, REDACTED and REDACTED was looted. He states that he suffered trauma and anguish, that he lost his business and that his children were deprived of school education, which harm persisted at the time of the application.
- (x) Application a/0229/07 is submitted by a REDACTED year old man. He asserts that in REDACTED he was abducted by the LRA and held hostage until REDACTED, and that he was beaten several times and forced to travel unbearable long distances with heavy loads. He states that he suffered trauma and mental pain, for which he required psychological treatment, and that he suffers from *inter*

alia chest and shoulder pain, which harm persisted at the time of the application.

- (xi) Application a/0235/07 is submitted by a REDACTED year old man. He asserts that he was abducted by the LRA in REDACTED, was held hostage until REDACTED, that he was forced to kill innocent people and was also severely beaten and made to travel unbearable long distances. He states that he suffered chest pain and other injuries, in addition to mental pain and anguish, which harm persisted at the time of the application. The applicant also states that he lost his brother.
- (xii) Application a/0237/07 is submitted by a REDACTED year old man. He asserts that in REDACTED he was arrested by the LRA and that the LRA abducted his two children; at least one child appears to still be abducted. He also asserts that the LRA looted his household properties and took away his REDACTED. He states that he suffered chest pain, persisting at the time of the application, and that he is living in poverty due to the looting.
- (xiii) Application a/0324/07 is submitted by a REDACTED year old man. He asserts that in REDACTED he was captured by the LRA, beaten and forced to abduct children, to loot civilians' homes and carry heavy loads. He states that he suffered psychological and physical problems, constant chest pain and headache, which harm persisted at the time of the application.

Proof of identity

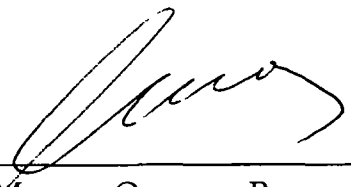
7. Applicants appear⁹ to have sufficiently proven their identity: Applicants a/0192/07, a/0194/07, a/0206/07, a/0219/07, a/0220/07, a/0229/07, a/0235/07, and a/0237/07 by submitting letters of the respective local authorities, applicants a/0209/07, a/0216/07, a/0221/07 by submitting their voting cards, applicant a/0217/07 by submitting a letter of a Humanitarian Agency and applicant a/0324/07 by submitting his certificate of amnesty.

Observations of the Prosecution

8. Applicants a/0192/07, a/0194/07, a/0206/07, a/0209/07, a/0217/07, a/0219/07, a/0220/07, a/0221/07, a/0229/07, a/0235/07, a/0237/07, and a/0324/07 meet the criteria as natural persons within the meaning of Rule 85 (a). They all invoke harm they personally suffered from crimes committed in Uganda after July 2002.
9. Application a/0216/07 meets the criteria under Rule 85(b). The application details that the REDACTED organisation is dedicated to REDACTED purposes and sustained direct harm to its property.
10. The victim applications that were forwarded to the Prosecution contain significant redactions - in particular to the dates and locations of alleged crimes – which relate to the link between the harms suffered and the particular crimes charged. The Prosecution accordingly cannot offer additional observations on whether the applicants properly qualify for participation.¹⁰

⁹ The Prosecution draws the attention of the Single Judge to the fact that parts of the respective information are redacted.

¹⁰ The Prosecution notes that the redactions applied to the applications appear to go beyond the elements as detailed in the Decision (see at pages 6 and 7).



Luis Moreno-Ocampo, Prosecutor

Dated this 30th day of March 2009
At The Hague, The Netherlands