



Original: **English**

No.: ICC-02/05-03/09

Date: 3 January 2012

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Silvia Fernandez de Gurmendi

SITUATION IN DARFUR, SUDAN

IN THE CASE OF
THE PROSECUTOR v. ABDALLAH BANDA ABAKAER
NOURAIN AND SALEH MOHAMMED JERBO JAMUS

Public Redacted Version of the

Request for extension of time to submit complete applications

Source: Office of Public Counsel for Victims

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

Mr. Karim AA Khan QC
Mr. Nicholas Koumjian
Mr. Ibrahim Yillah

Legal Representatives of the Victims

Ms. Hélène Cissé
Mr. Jens Dieckmann

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Ms. Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Counsel Support Section

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

I. Procedural History

1. On 17 October 2011, Trial Chamber IV (the “Chamber”) issued its “Decision on the Registry report on six applications to participate in the proceedings” (the “Decision”),¹ ordering the Registrar, *inter alia*, to appoint the Office of Public Counsel for Victims (the “OPCV” or the “Office”) as legal representative for the unrepresented applicants, pending the Chamber’s ruling on their application to participate in the proceedings. In the Decision, the Chamber also ordered that any new application for participation in the proceedings be submitted to the Victims Participation and Reparations Section (the “VPRS”) by 13 January 2012.²

2. On 25 October 2011, the Registrar filed the “Registration of the Appointment of Office of Public Counsel for Victims in accordance with the Decision of the Chamber dated 17 October 2011”, informing the Chamber of the appointment of the Principal Counsel of the Office as the legal representative of unrepresented applicants in the present case.³ However, at that point in time, the Registry did not identify the individuals affected by the Decision and the Office was not provided with the applications concerned.

3. On 9 November 2011, the VPRS transmitted - via an Internal Memorandum - 13 applications from unrepresented applicants to the OPCV.

4. On 22 December 2011, the VPRS transmitted three additional applications of unrepresented applicants to the Office.

¹ See the “Decision on the Registry report on six applications to participate in the proceedings”, No. ICC-02/05-03/09-231-Corr, 28 October 2011.

² *Idem*, p. 16.

³ See the Registration of the Appointment of Office of Public Counsel for Victims in accordance with the Decision of the Chamber dated 17 October 2011, No. ICC-02/05-03/09-240 and Annex, 25 October 2011.

5. This submission is filed confidential *ex parte* OPCV and VPRS only due to the fact that it contains information about the locations where the applicants currently reside. A public redacted version is submitted simultaneously.

II. Request for extension of time-limit

6. The OPCV represents 16 applicants who presently live in different locations in [REDACTED] and in [REDACTED]. The Office has conducted an assessment of said applications and it appears that 14 of them are incomplete and therefore do not fulfill the requirements set out in rule 85 of the Rules of Procedure and Evidence.

7. Indeed, 11 applicants had their applications rejected by Pre-Trial Chamber I in the case of the *Prosecutor v. Bahar Idriss Abu Garda* due to the insufficiency of information regarding their relationship with the deceased peacekeepers.⁴ As regards two applications, the VPRS has indicated that it had in the past sought supplementary information; however the efforts made to contact the applicants were not successful. Concerning one application submitted by a minor, further information is needed.

8. Despite its best efforts, the Office was unable to organize a mission to [REDACTED] before the end of December 2011 because of logistical difficulties related to the fact that the applicants reside in different locations within the country, that the Court has no field presence, that a suitable interpreter has to be found, and to the lack of resources available. Moreover, in relation to the organization of said mission, the Office has to rely on external parties which were unable to support its activity within such a short period of time. In relation to the applications received on 22 December 2011, the Office was unable to take any steps to organize a mission in

⁴ See the "Decision on Applications a/0655/09, a/0656/09, a/0736/09 to a/0747/09, and a/0750/09 to a/0755/09 for Participation in the Proceedings at the Pre-Trial Stage of the Case", ICC-02/05-02/09-255, Pre-Trial Chamber I, 19 March 2010, paras. 30 and 31.

[REDACTED] before this week and the security situation in the country currently requires particular attention.

9. Considering the workload of the Office, the resources available, and the fact that the process of collecting supplementary information requires to conduct one mission to [REDACTED] and one mission to [REDACTED] to meet with the applicants and gather further information necessary to complete their applications, the Office estimates that it will not be able to complete said applications before the end of February 2012.

10. The Office therefore requests the Chamber to find that good cause has been shown for an extension of time-limit to submit complete applications to the VPRS. In this regard, the Office argues that the request does not prejudice the right of parties and participants since no date for the start of the trial as yet been set and other issues like the translation of the witnesses' statements into Zagawa and the recruitment of Zagawa language assistants are still pending.

FOR THE FOREGOING REASONS, pursuant to regulation 35 of the Regulations of the Court, the Principal Counsel respectfully requests the Trial Chamber to extend the deadline for submitting to the VPRS complete application of the applicants represented by the OPCV until 29 February 2012.

A handwritten signature in black ink, reading 'Paolina Massidda', with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 3rd of January 2012

At The Hague, The Netherlands