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

Date: 24 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
&
SALEH MOHAMMED JERBO JAMUS***

Public Document with Confidential Annex 1

**Request for extension of time to submit supplemental information
to victim's application**

Source: Victims represented by Sir Geoffrey Nice QC and Rodney Dixon

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

The Office of the Prosecutor

Luis Moreno-Ocampo, Prosecutor

Counsel for the Defence

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Legal Representatives of Victims

Helene Cisse

Jens Dieckmann

Sir Geoffrey Nice QC &

Rodney Dixon

Legal Representatives of the Applicant

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

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Silvana Arbia, Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

Other

A. Introduction

1. The Legal Representatives for Victim a/6000/11 file this request for an extension of the 13 January 2012 deadline for submitting to the Victims Participation and Reparations Section (VPRS) complete victims applications as ordered by the Trial Chamber on 17 October 2011.¹
2. This request is filed pursuant to Regulation 35 of the Regulations of the Court.² The Legal Representatives for Victim a/6000/11 respectfully request that the Trial Chamber grant an extension until 29 February 2012 for victim a/6000/11 to complete her victim application for the reasons set out below, and in light of the Request by the Office for Public Counsel for Victims (OPCV) for an extension of the deadline until 29 February 2012.³

B. Procedural History

3. On 27 May 2011, the application for participation for victim a/6000/11 in case ICC-02/05-03/09 was submitted to VPRS along with the applications of two other victims who also sought participation as victims.⁴
4. On 6 September 2011, by way of email, VPRS contacted the Legal Representatives to request supplemental information to complete the applications for victim a/6000/11 and a/6002/11. The supplemental information required for victim a/6000/11 was for (i) clarification of her date of birth, (ii) provision of an official identity document for her husband and (iii) provision of a document proving her marriage relationship with her husband.⁵
5. On 17 October 2011, the Trial Chamber issued the “Decision on the Registry report on six applications to participate in the proceedings” in which the Trial Chamber ordered

¹ Decision on the Registry report on six applications to participate in the proceedings, ICC-02/05-03/09-231, 17 December 2011; Corrigendum to Decision on the Registry Report on six applications to participate in the proceedings, ICC-02/05-03/09-231-Corr, 28 October 2011.

² Regulations of the Court, reg. 35.

³ Request for extension of time to submit complete applications, ICC-02/05-03/09-273-Red, 3 January 2012.

⁴ Letter of 27 May 2011 to VPRS from the Legal Representatives of victim a/6000/11. Enclosed with the letter were the supporting documents for the applications of victims a/6000/11, a/6001/11 and a/6002/11.

⁵ Email from VPRS to the Legal Representatives on 6 September 2011.

“that any new application for participation in the proceedings must be submitted to the VPRS by 13 January 2012.”⁶

6. On 6 December 2011, the Legal Representatives informed VPRS that consultations with victim a/6002/11 provided clarification on the supplemental information requested for victim a/6002/11; namely clarification of the correct date of birth for a/6002/11.⁷ The Legal Representatives asked for advice on the proper procedure for notifying this clarification and were advised by VPRS on 7 December 2011 that the “Trial Chamber was informed of the additional information concerning application a/6002/11 you provided through the below email” and “[a]n addendum to the application form with this information will also be filed in the record of the case.”⁸
7. On 21 December 2011, the Registry transmitted to the Trial Chamber “the full non-redacted version of applications a/6001/11 and a/6002/11, with ... the supplementary information added to application a/6002/11.”⁹
8. On 3 January 2011, the OPCV filed a “Request for extension of time to submit complete applications” with the Trial Chamber.¹⁰ The OPCV explained that logistical difficulties made obtaining supplemental information, which is required for the applications of victims represented by the OPCV, impossible before the 13 January 2012 deadline, and therefore, requested that the Trial Chamber extend the deadline to complete applications until 29 February 2012.
9. On 11 January 2011, the Legal Representatives for victim a/6000/11 sought the advice of the VPRS on the remaining supplemental information still required to complete victim a/6000/11’s application in light of the approaching deadline of 13 January 2012. Pursuant to the advice given by VPRS, the Legal Representatives submitted an email to VPRS on 12 January 2011 which was to be transmitted to the Trial Chamber. As requested by VPRS, the email explained the difficulties of obtaining the

⁶ Decision on the Registry report on six applications to participate in the proceedings, ICC-02/05-03/09-231, 17 December 2011; Corrigendum to Decision on the Registry Report on six applications to participate in the proceedings, ICC-02/05-03/09-231-Corr, 28 October 2011.

⁷ Email from the Legal Representatives to VPRS on 6 December 2011.

⁸ Email from VPRS to the Legal Representatives on 7 December 2011.

⁹ Addenda to the transmission to the Trial chamber and to the parties and the legal representatives of the applicants of applications a/6001/11 and a/6002/11 for participation in the proceedings (ICC0-2/05-03/09-216 and ICC-02/05-03/09-244), ICC-02/05-03/09-270, 21 December 2011.

¹⁰ Request for extension of time to submit complete applications, ICC-02/05-03/09-273-Red, 3 January 2012.

supplemental information for victim a/6000/11 and requested an extension in order to obtain and submit the remaining supplemental information (see Annex 1).¹¹ On 13 January 2012, the Legal Representatives were informed by email that VPRS would transmit the information within the 12 January 2012 email to the Trial Chamber (see Annex 1).¹²

10. On 18 January 2012, the Legal Representatives for victim a/6000/11 received an email from VPRS stating that “[i]n reference to your email below asking for advice on the appropriate procedure for requesting a further 21 days to seek to obtain the information required so that application a/6000/11 can be considered, we advise that you, as legal representatives of applicant a/6000/11, file a formal request for extension of time-limit in the record of the case.”¹³

C. Request for extension of time-limit

11. Regulation 35 of the Regulations of the Court states that “[a]pplications to extend or reduce any time limit as prescribed in these Regulations or as ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought”¹⁴ and may be granted “if good cause is shown.”¹⁵
12. Regulation 35(2) specifies that “[a]fter the lapse of a time limit, an extension of time may only be granted if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control.”¹⁶
13. First, it should be noted that the Legal Representatives for victim a/6000/11 have informed the VPRS that consultations with the victim applicant have allowed the Legal Representatives to clarify her date of birth; one of the clarifications requested as supplemental information by VPRS. VPRS has been advised of this clarification and

¹¹ Annex 1, Email correspondence between the Legal Representatives and VPRS, email of 12 January 2012.

¹² Annex 1, Email correspondence between the Legal Representatives and VPRS, email of 13 January 2012.

¹³ Annex 1, Email correspondence between the Legal Representatives and VPRS, email of 18 January 2012.

¹⁴ Regulations of the Court, reg. 35(1).

¹⁵ Regulations of the Court, reg. 35(2).

¹⁶ Regulations of the Court, reg. 35(2).

has stated that it is sufficient, as provided, to satisfy the request for supplemental information in respect of the birth date.

14. Second, the Legal Representatives can confirm that inquiries have been made about obtaining an official marriage certificate for victim a/6000/11 and her husband, but that such a certificate was never issued as it is not the custom or practice for such a document to be issued in the village where the victim lives. The Legal Representatives have therefore sought to obtain a statement from a village elder, or other person in authority, confirming the marriage of victim a/6000/11 to her husband.
15. The Legal Representatives have been trying to make the necessary arrangements to obtain the remaining supplemental information from the victim's village which is situated in a remote part of Darfur, but have been unable to date to acquire the proposed statement or a copy of the identification documentation of the victim's husband.
16. It should be taken into account that the Legal Representatives are planning to travel to Sudan and Darfur in the coming month to visit and consult with the victims. The Legal Representatives had attempted to arrange travel to Sudan for this purpose in late 2011 but due to logistical reasons were unable to travel then. The Legal Representatives have informed VPRS that all necessary documentation could be obtained in person on the planned visit.
17. The Legal Representatives submit that there is good cause to grant the extension of the deadline considering the difficulties of obtaining the remaining supplemental information from a remote part of Darfur and taking into account the efforts made to date to acquire this information, as well as the planned visit to the area when the information can be secured, if not before. The Legal Representatives note that when initially consulting with the VPRS about an extension of time, the Legal Representatives suggested an extension of 21 days to obtain the remaining information. In light of the OPCV's Request for an extension to the deadline, the Legal Representatives for victim a/6000/11 ask the Trial Chamber to allow victim a/6000/11 the same period to submit the remaining two supplemental documents required. The Legal Representatives for victim a/6000/11 therefore respectfully

request an extension until 29 February 2012 to complete victim a/6000/11's application.

18. The Legal Representatives submit that the requested extension does not prejudice the rights of the parties due to the limited time the deadline would be extended and the fact that a trial date has not been set while issues of translation are still pending.

19. The Legal Representatives also wish to address the timing of this filing in light of Regulation 35(2). The Legal Representatives re-iterate that when advice was sought from VPRS on 11 and 12 January 2012 as to the proper procedure to request an extension of the 13 January 2012 deadline - particularly whether a formal application to the Trial Chamber should be filed or whether it was appropriate for VPRS to communicate with Trial Chamber directly - the Legal Representatives were advised to explain the difficulties of obtaining the supplemental information and send this in an email to VPRS to be forwarded to the Trial Chamber.¹⁷ On 13 January 2012, VPRS indicated to the Legal Representatives that their emailed explanation and request was passed to the Trial Chamber.¹⁸ The Legal Representatives, therefore, understood the position at that stage to be that the proper procedure was to allow VPRS to communicate with the Trial Chamber and not for the Legal Representatives to seek direct communication with the Trial Chamber. It is for these reasons that no application for an extension was filed before the Trial Chamber by the Legal Representatives of victim a/6000/11, and accordingly it is submitted by the Legal Representatives that the fact that this application is filed after the deadline should not bar victim a/6000/11 from being granted a limited extension to complete her application.

D. Conclusion

20. For these reasons, the Legal Representatives of victim a/6000/11 pursuant to Regulation 35 of the Regulations of the Court respectfully request the Trial Chamber to grant an extension of the 13 January 2012 deadline to permit victim a/6000/11 to complete her victim application by 29 February 2012.

¹⁷ Annex 1, Email correspondence between the Legal Representatives and VPRS, email of 12 January 2012.

¹⁸ Annex 1, Email correspondence between the Legal Representatives and VPRS, email of 13 January 2012.



Sir Geoffrey Nice QC
Rodney Dixon
Legal Representatives of the Victims

Dated 24th January 2012
London, United Kingdom