

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 March 2012

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Silvia Fernández de Gurmendi
Judge Chile Eboe-Osuji

SITUATION IN DARFUR, SUDAN

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

Public Document with Confidential Annexes 1 and 2

**Decision on the Request of the Legal Representatives of victim a/6000/11
pursuant to Regulation 35**

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
Ms Fatou Bensouda

Counsel for the Defence

Mr Karim A.A. Khan
Mr Nicholas Koumjian

Legal Representatives of Victims

Ms Hélène Cissé
Mr Jens Dieckmann

Legal Representatives of Applicants

Sir Geoffrey Nice &
Mr Rodney Dixon

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**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

Trial Chamber IV ("Chamber") of the International Criminal Court ("ICC"), in accordance with Regulation 35 of the Regulations of the Court ("Regulations"), issues the following Decision on the Request of the Legal Representatives of victim a/6000/11 pursuant to Regulation 35.

I. Background and submissions

1. On 17 October 2011, the Chamber issued its "Decision on the Registry Report on six applications to participate in the proceedings", in which it ordered, *inter alia*, that any new application for participation in the proceedings be submitted to the Victims Participation and Reparations Section ("VPRS") by 13 January 2012.¹ It also ordered the Registrar to appoint the Office of Public Counsel for Victims ("OPCV") as the legal representative of applicants who have no legal representative acting for them, pending a decision of the Chamber on their application.²
2. On 3 January 2012, the OPCV, which since its appointment³ had received 16 applications, requested an extension of time to submit complete applications⁴. On 11 January 2012, the Chamber granted the request pursuant to Regulation 35 of the Regulations and extended the deadline for submitting to the VPRS the 16 complete applications of the applicants represented by the OPCV until 29 February 2012 (Annex 1).⁵

¹ Decision on the Registry Report on six applications to participate in the proceedings, 17 October 2011, ICC-02/05-03/09-231; Corrigendum to Decision on the Registry Report on six applications to participate in the proceedings, 28 October 2011, ICC-02/05-03/09-231-Corr, paragraph 30 and page 16.

² *Ibid.*, paragraph 28 and page 16.

³ Registration of the Appointment of Office of Public Counsel for Victims in accordance with the Decision of the Chamber dated 17 October 2011, 25 October 2011, ICC-02/05-03/09-240 and Annex.

⁴ Request for extension of time to submit complete applications, 3 January 2012, ICC-02/05-03/09-273-Red.

⁵ Email communication from a legal officer of the Chamber to the OPCV on 11 January 2012 at 14.44 hours.

3. On 24 January 2012, the Legal Representatives of applicant a/6000/11 ("Legal Representatives") requested an extension of time to complete the victim's application.⁶ The Legal Representatives indicated that on 27 May 2011 the VPRS received the said application and that on 6 September 2011, the VPRS contacted them to request that supplementary information be provided, namely (i) clarification of the date of birth of the victim (ii) provision of an official identity document for her husband and (iii) provision of a document proving her marriage relationship with her husband.⁷ In the request, the Legal Representatives indicated that the first information had been provided to the VPRS, but that they had encountered practical difficulties in obtaining the remaining supplementary information.⁸
4. On 25 January 2012, the Chamber granted the request pursuant to Regulation 35 of the Regulations and extended the deadline for submitting to the VPRS the complete application of applicant a/6000/11 until 29 February 2012 (Annex 2).⁹
5. On 6 March 2012, the Legal Representatives of applicant a/6000/11 filed a further request pursuant to Regulation 35 ("Request"), in which they submit that on 29 February 2012 they transmitted to the VPRS documentation confirming the victim's marriage but were not able to provide an official identity document of the victim's husband.¹⁰ They explain the efforts made and the difficulties encountered in obtaining such a document, which they received a few days after the expiration

⁶ Request for extension of time to submit supplemental information to victim's application, 24 January 2012, ICC-02/05-03/09-283.

⁷ *Ibid.*, paragraphs 3 and 4.

⁸ *Ibid.*, paragraphs 13 to 15.

⁹ Email communication from a legal officer of the Chamber to the Legal Representatives of victim a/6000/11 on 25 January 2012 at 17.20 hours.

¹⁰ Request of the Legal Representatives of Victim a/6000/11 pursuant to Regulation 35, 6 March 2012 (notified on 7 March 2012), ICC-02/05-03/09-305-Conf-Exp, paragraph 3 and 4.

of the deadline of 29 February 2012, and submitted immediately after, on 5 March 2012, to the VPRS.¹¹

6. Concerning the timing of the application, the Legal Representatives submit that they “had hoped to receive the identification document by 29 February 2012” and that “the earliest opportunity that the present request could be filed was when the document was received and submitted to the VPRS”.¹² They finally submit that extending the deadline by five days in order to accept this document will not prejudice the parties nor delay the proceedings.¹³
7. On 12 March 2012, the Legal Representatives of a/6000/11 filed a public redacted version of the Request.¹⁴ On 19 March 2012, the parties informed the Chamber that they do not oppose the Request and will not file a response.¹⁵
8. On 16 March 2012, by decision of the Presidency, Judge Chile Eboe-Osuji replaced Judge Fatoumata Dembele Diarra as a judge in Trial Chamber IV.¹⁶

II. Analysis

9. The Chamber notes the arguments advanced by the Legal Representatives in support of their Request, in particular the difficulties encountered in obtaining the remaining document to complete the application, which was received only a few

¹¹ *Ibid.*, paragraphs 4 and 5.

¹² *Ibid.*, paragraph 7.

¹³ *Ibidem.*

¹⁴ Public Redacted Version of “Request of the Legal Representatives of Victim a/6000/11 pursuant to Regulation 35” (ICC-02/05-03/09-305-Conf-Exp), 12 March 2012, ICC-02/05-03/09-305-Red.

¹⁵ Email communication from the defence to the Chamber through a legal officer sent on 19 March 2012 at 12.47 hours; email communication from the prosecution to the Chamber through a legal officer sent on 19 March 2012 at 14.14 hours.

¹⁶ Decision replacing a judge in Trial Chamber IV, 16 March 2012, ICC-02/05-03/09-308.

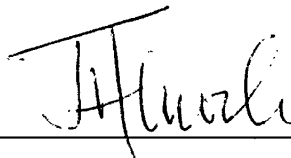
days after the deadline. With regard to the reasons for the timing of the application, the Chamber recalls, for future purposes, that an application to extend a time limit pursuant to Regulation 35 of the Regulations should be filed, when possible, before the expiration of the deadline, setting out the grounds on which the variation is sought.

10. In light of the reasons submitted by the Legal Representatives, the Chamber pursuant to Regulation 35 of the Regulations, grants the sought extension of time and considers that the identification document should be transmitted to the Chamber as part of the application a/6000/11.

FOR THESE REASONS, THE CHAMBER

GRANTS the Request.

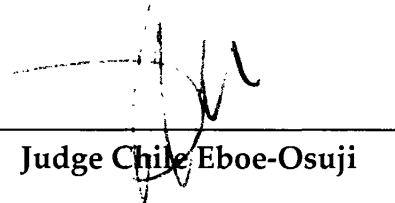
Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch



Judge Fernández de Gurmendi



Judge Chib Eboe-Osuji

Dated this 29 March 2012

At The Hague, The Netherlands