

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/09
Date: 1 September 2009

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR v.
OMAR HASSAN AHMAD AL BASHIR ("Omar Al-Bashir")**

Public Document

**Decision Ordering the Parties to Submit their Observations on the Applications
for Victims' Participation in the Proceedings**

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
Mr Essa Faal

Counsel for the Defence

Ms Michelyne C. Saint-Laurent

Legal Representatives of the Victims

Legal Representatives of the Applicants

Ms Wanda M. Akin
Mr Raymond M. Brown

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 & Deputy Registrar

Ms Silvana Arbia & Mr Didier Daniel
Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

I, Judge Sanji Mmasenono Monageng, judge of Pre-Trial Chamber I (the "Chamber") of the International Criminal Court (the "Court");

NOTING the "Decision on the Designation of a Single Judge on Victims' Issues and on the Deadline for the Filing of Applications for Participation", issued on 19 August 2009, whereby Judge Sanji Monageng was designated Single Judge responsible for all issues related to victims' applications to be authorized to participate as victims in the proceedings related to the case of *The Prosecutor v. Omar Hassan Ahmad Al Bashir* (the "Omar al-Bashir Case");¹

NOTING the "Report on applications to participate in the proceedings", filed by the Victims Participation and Reparation Section (the "VPRS") on 14 August 2009, in which the Registry submits, with annexes 1-5, the requests for participation in the Pre-Trial phase of the following four applicants: a/0011/06, a/0012/06, a/0013/06 and a/0015/06 ("the Applications");²

NOTING the "Decision on the 'Legal Representative's Request to Expedite the Consideration of Applications for Victim Status'", issued on the 27 August 2009 ("the 27 August 2009 Decision");³

NOTING article 68(3) of the *Statute of the Court* (the "Statute"), rules 16, 86 and 89 of the *Rules of Procedure and Evidence* ("the Rules") and regulations 24(1), 33, 34(a) and (b), 76(1), 81(4) and 86 of the *Regulations of the Court* ("the Regulations");

¹ ICC-02/05-01/09-31.

² ICC-02/05-01/09-30-Conf-Exp and ICC-02/05-01/09-Conf-Exp-Anxs 1-5.

³ ICC-02/05-01/09-36.

CONSIDERING that, under rule 89(1) of the Rules, the Prosecution and the Defence are entitled to make observations concerning the applications within a time limit set by the Chamber, and that the Single Judge deems it necessary, in order to be in a position to make a decision as to whether the applicants should be granted the status of victims in the Omar al-Bashir Case, to give the opportunity to the Prosecution and the Defence to submit their observations on the merits of the Applications;

CONSIDERING further the need to ensure that the participation of those who have been granted authorisation to present their views and concerns as victims during the pre-trial phase, must be in a manner which is not prejudicial to or inconsistent with the rights of the defence and a fair and impartial trial, in accordance with article 68(3) of the Statute;

CONSIDERING therefore that at this stage of the proceedings, where the suspect is not yet represented by a defence counsel, the Single Judge deems it in the interest of justice to appoint, following consultation with the Registrar and in accordance with regulation 76(1) of the Regulations, a counsel for the defence, entrusted with the responsibility for all issues related to the Applications, including in particular the right to receive a copy of those Applications and to submit observations thereon;

CONSIDERING that, with the view to ensuring expediency of the proceedings, it appears appropriate to appoint Ms Michelyne C. Saint-Laurent as counsel for the defence within the context and for the purposes of the proceedings on the Applications;

CONSIDERING that, in accordance with the precedents of this Chamber, the identities of the applicants can be disclosed to the Prosecution, since the Prosecution

is an organ of the Court, which is also charged with protecting victims and witnesses;

CONSIDERING further that the Prosecution is the organ that, pursuant to regulation 86 of the Regulations, can be requested to provide the Registry with further information about the Applications or the applicants;

CONSIDERING that, on the other hand, before authorisation is granted, there is no requirement to disclose to the Defence the identities of the applicants, since, once authorization is granted, the victims authorized to participate are entitled to decide whether to remain anonymous or disclose their identities to the Defence;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY:

DECIDE to appoint Ms Michelyne C. Saint-Laurent as counsel for the defence, entrusted with representing and protecting the interests of the Defence within the context and for the purposes of the proceedings on the Applications for participation in the Omar al-Bashir Case, pursuant to rule 89 of the Rules;

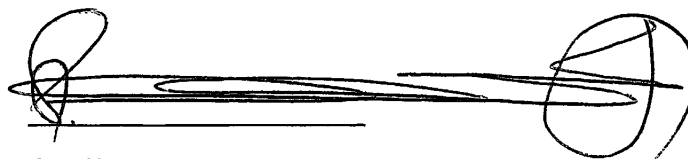
ORDER the Registry, by Tuesday 8 September 2009 at 16h00, to provide:

- (i) the Prosecution with non-redacted copies of the 4 Applications for Participation;
- (ii) the counsel for the defence with copies of the 4 Applications for participation, in which names, addresses and other sensitive information which could lead to the applicants' identification are redacted; and,

GRANT the Prosecution and the counsel for the defence no later than Tuesday 29 September 2009 at 16h00, to file their observations on the Applications for participation;

DECIDE that the present decision replaces the 27 August 2009 Decision in its entirety.

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

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, followed by a circular flourish.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Tuesday 1 September 2009

At The Hague, The Netherlands