

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/04-01/05
Date: 11 November 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

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

Public Document

**Decision on request by the Office of Public Counsel for Victims for extension of
time limit in proceedings under article 19(1)**

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 Jens Dieckmann

Legal Representatives of the Victims

Legal Representatives of the Applicants

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

The Government of the Republic of
Uganda

Amici Curiae

The Uganda Victims' Foundation
Redress Trust

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

The Judges of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”);

1. **NOTING** the “Decision assigning the situation in Uganda” to Pre-Trial Chamber II issued by the Presidency on 5 July 2004¹;
2. **NOTING** the “Decision initiating proceedings under article 19, requesting observations and appointing counsel for the Defence” dated 21 October 2008, whereby the Chamber decided to initiate proceedings under article 19(1) of the Statute (the “Proceedings”) and invited the Republic of Uganda, the Prosecutor, the counsel for the Defence (the “Defence”) and victims having already communicated with the Court with respect to the case of *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* (the “Case”), or their legal representatives, to submit their observations on the admissibility of the Case by 10 November 2008;²
3. **NOTING** the “Decision on Defence Counsel’s ‘Request for conditional stay of proceedings’” dated 31 October 2008, whereby the Chamber *inter alia* rejected the “Request for conditional stay of proceedings”³ by the Defence and extended the time limit for the Republic of Uganda, the Prosecutor, the Defence and the victims having communicated with the Court with respect to the Case to submit observations in the Proceedings until 18 November 2008⁴;
4. **NOTING** the “Application of the OPCV to extend the time limit for the submission of observations with regard to the admissibility proceedings” filed by the Office of Public Counsel for Victims (the “OPCV” or the “Office”) on 4

¹ ICC-02/04-1.

² ICC-02/04-01/05-320.

³ ICC-02/04-01/05-325.

⁴ ICC-02/04-01/05-328.

November 2008⁵, whereby the Office highlighted the difficulties it had been and was still facing in reaching the victims having communicated with the Court in respect of the Case, with a view to gathering their views on the issues at stake in the Proceedings;

5. **NOTING** that, in particular, the Office listed a number of reasons explaining such difficulties, including (i) logistical obstacles; (ii) difficulties arising from the security situation in Uganda and (iii) difficulties due to the fact that many victims would only be reachable after the end of the first week in December, when they would go back to their place of residence upon the beginning of the school holidays;
6. **NOTING** that, accordingly, the Office argued that good cause was shown for requesting and obtaining an extension of the time limit for submitting observations in the Proceedings until 15 December 2008;
7. **NOTING** the "Report on implementation of decision initiating proceedings under article 19, requesting observations and appointing counsel for the Defence" submitted by the Victim Participation and Reparation Section (the "VPRS") on 7 November 2008 (the "Report")⁶, whereby the VPRS informed the Chamber of the steps taken to inform the victims who had already communicated with the Court of the initiation of the Proceedings and highlighted constraints and difficulties it was facing in respect of those victims not having yet a legal representative;
8. **NOTING** that the Report pointed out its cooperation with the OPCV in trying to effectively inform also victims not having a legal representative, with a view to enabling them to present their observations to the Chamber;

⁵ ICC-02/04-01/05-332.

⁶ ICC-02/04-01/05-334.

9. **NOTING** that the Report explained that two main methods had been adopted, consisting of (i) airing radio broadcasts in the relevant local languages on community radio stations in the relevant regions, and (ii) providing information directly to victims who had been admitted to participate in the proceedings relating to the Case, with the assistance of relevant intermediary organizations;
10. **NOTING** that, furthermore, VPRS organized a day-long collective meeting with all relevant intermediary organizations on 2 November 2008, who agreed to immediately start the process of disseminating information on the Proceedings to the victims, whether admitted or not to participate in proceedings relating to the Case;
11. **NOTING** that, although the time estimate for all of the victims having communicated with the Court in respect of the Case being contacted by the relevant intermediary was as long as six weeks, some of the intermediaries indicated they would manage to inform the victims they had assisted in less than a week;
12. **NOTING** that some of the intermediaries mentioned that their difficulties in reaching the relevant victims depended on factors similar to those pointed out by the OPCV, in particular logistical difficulties and security concerns;
13. **NOTING** regulation 35(2) of the Regulations of the Court;
14. **CONSIDERING** that the nature of the factors pointed out by both the OPCV and the VPRS as preventing them from reaching all of the victims within the time limit granted for the submission of observations makes it impossible for either of them to make certain that outstanding difficulties (in particular, those

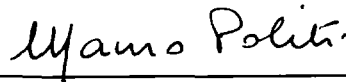
relating to security and logistics) will be actually overcome by a specific time limit;

15. **CONSIDERING** that, accordingly, it remains uncertain whether it will be possible to overcome the highlighted difficulties within the time-frame requested by the OPCV as a new deadline for submitting observations;
16. **CONSIDERING** further that the security and logistic difficulties highlighted by both the Office and VPRS are likely to also affect the possibility to contact victims allegedly returning to their habitual place of residence after the end of the first week in December, this making it uncertain whether it will be possible to actually gather the views of such victims within the time limit indicated by the Office;
17. **CONSIDERING** the duty of the Chamber to ensure the expeditiousness of the proceedings as a fundamental tenet of their fairness;
18. **CONSIDERING** that victims represented by the OPCV will be able to submit their views through the Office and that, according to the indications of the Report, intermediaries having assisted only a small number of victims or applicants estimated they would have been able to inform all of them "in less than a week" starting from 2 November 2008;
19. **CONSIDERING** that, accordingly, a significant amount of victims will be able to submit their observations by 18 November 2008;
20. **CONSIDERING** that, as regards those victims having communicated with the Court in respect of the Case who will not have been able to submit their views by 18 November 2008, it will always be possible to ask for leave to submit observations at a later stage;

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the OPCV's application to extend the time limit for the submission of observations with regard to the Proceedings.

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



Judge Mauro Politi
Presiding Judge



Judge Hans-Peter Kaul



Judge Ekaterina Trendafilova

Dated this Tuesday, 11 November 2008

At The Hague, The Netherlands.