



Original : English

No.: ICC-02/04-01/05
Date: 9 February 2009

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Single Judge

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

Public

Decision on legal representation of Victims a/0065/06, a/0066/06, a/0068/06, a/0088/06, a/0090/06 to a/0096/06, a/0098/06, a/0102/06, a/0103/06, a/0112/06, a/0115/06, a/0117/06, a/0118/06, a/0120/06 to a/0126/06, a/0076/07 to a/0078/07, a/0081/07, a/0082/07, a/0084/07, a/0085/07, a/0090/07 to a/0103/07, a/105/07 to a/0108/07, a/0112/07, a/0115/07, a/0117/07, a/0118/07 and a/0123/07

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 Michiel Pestman

Ms Michelyne C. Saint-Laurent

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

Ms Sarah Pellet

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Victims and Witnesses Unit

Defence Support Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Detention Section

I, Judge Mauro Politi, judge at the International Criminal Court (the “Court”);

1. **NOTING** the “Decision designating a Single Judge on victims' issues”, dated 22 November 2006¹, whereby Pre-Trial Chamber II (the “Chamber”) designated Judge Mauro Politi as Single Judge responsible for all issues arising in connection with victims' participation in the proceedings in the situation in Uganda (the “Situation”) and in the case of *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* (the “Case”);

2. **NOTING** the Single Judge's “Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06” in the Situation² and in the Case³ dated 10 August 2007 (the “10 August 2007 Decision”), whereby *inter alia* Applicants a/0090/06, a/0098/06, a/0112/06, a/0118/06 and a/0122/06 were granted the status of victim of the Case, Applicant a/0101/06 was granted the status of victim in the context of the Situation and Applicant a/0119/06 was granted the status of victim both of the Case and in the context of the Situation;

3. **NOTING** the Single Judge's “Decision on legal representation of Victims a/0090/06, a/0098/06, a/0101/06, a/0112/06, a/0118/06, a/0119/06 and a/0122/06” in the Situation⁴ and in the Case⁵ dated 15 February 2008⁶ (the “15 February 2008 Decision”), whereby Ms Adesola Adeboyejo, Counsel in the Office of Public Counsel for Victims (the “OPCV” or the “Office”), was appointed as legal representative of Victims a/0090/06, a/0098/06, a/0112/06, a/0118/06 and a/0122/06, and Ms Paolina Massidda, Principal Counsel in the OPCV, was appointed as legal representative of Victims a/0101/06 and a/0119/06;

¹ ICC-02/04-01/05-130.

² ICC-02/04-100-Conf-Exp; ICC-02/04-101.

³ ICC-02/04-01/05-251-Conf-Exp; ICC-02/04-01/05-252.

⁴ ICC-02/04-117.

⁵ ICC-02/04-01/05-267.

⁶ ICC-02/04-117; ICC-02/04-01/05-267.

4. **NOTING** the Single Judge's "Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0100/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06" in the Situation⁷ and in the Case⁸, dated 14 March 2008 (the "14 March 2008 Decision"), whereby *inter alia* Applicants a/0094/06, a/0095/06, a/0103/06, a/0121/06 and a/0124/06 were granted the status of victim of the Case, Applicants a/0065/06, a/0068/06, a/0093/06 and a/0096/06 were granted the status of victim in the context of the Situation and Applicants a/0117/06, a/0120/06 and a/0123/06 were granted the status of victim both of the Case and in the context of the Situation;
5. **NOTING** the Registry's "Report to Pre-Trial Chamber II on applications a/0014/07 to a/0020/07 in accordance with Rule 89 paragraph 1 of the Rules of Procedure and Evidence, and Regulation 86 paragraph 5 of the Regulations of the Court" in the Situation⁹ and in the Case¹⁰ dated 11 April 2007, as well as the Registry's "Report to Pre-Trial Chamber II on applications a/0076/07 to a/0125/07 in accordance with Rule 89 paragraph 1 of the Rules of Procedure and Evidence, and Regulation 86 paragraph 5 of the Regulations of the Court" in the Situation¹¹ dated 22 June 2007 (collectively, the "Registry's Reports");
6. **NOTING** the Single Judge's "Decision on victims' applications for participation a/0066/06, a/0067/06, a/0069/06, a/0070/06, a/0083/06, a/0088/06, a/0091/06, a/0092/06, a/0102/06, a/0114/06, a/0115/06, a/0125/06 and a/0126/06" dated 17

⁷ ICC-02/04-124-Conf-Exp; ICC-02/04-125.

⁸ ICC-02/04-01/05-281-Conf-Exp; ICC-02/04-01/05-282.

⁹ ICC-02/04-01/05-92-Conf-Exp and the corrigendum thereto dated 23 April 2007 (ICC-02/04-92-Conf-Exp-Corr).

¹⁰ ICC-02/04-01/05-241 and the corrigendum thereto dated 23 April 2007 (ICC-02/04-01/05-241-Conf-Exp-Corr).

¹¹ ICC-02/04-97-Conf-Exp.

November 2008¹² (the “17 November 2008 Decision”), whereby Applicants a/0066/06, a/0088/06, a/0091/06, a/0092/06, a/0102/06, a/0115/06, a/0125/06 and a/0126/06 were granted the status of victim in the context of the Situation and Ms Adesola Adeboyejo, Counsel in the OPCV, was appointed as their common legal representative;

7. **NOTING** the Single Judge's “Decision on victims’ applications for participation a/0014/07 to a/0020/07 and a/0076/07 to a/0125/07” in the Situation¹³ and in the Case¹⁴, dated 21 November 2008 (the “21 November 2008 Decision”), whereby *inter alia* Applicants a/0076/07, a/0077/07, a/0078/07, a/0081/07, a/0082/07, a/0084/07, a/0085/07, a/0090/07, a/0091/07, a/0092/07, a/0093/07, a/0094/07, a/0095/07, a/0096/07, a/0097/07, a/0098/07, a/0099/07, a/0100/07, a/0101/07, a/0102/07, a/0103/07, a/0105/07, a/0106/07, a/0107/07, a/0112/07 and a/0123/07 were granted the status of victim of the Case, Applicants a/0115/07, a/0117/07 and a/0118/07 were granted the status of victim in the context of the Situation and Applicant a/0108/07 was granted the status of victim both of the Case and in the context of the Situation;
8. **NOTING** article 68(3) of the Statute of the Court (the “Statute”); rules 90(2) and 90 (4) of the Rules of Procedure and Evidence (the “Rules”); regulation 80 of the Regulations of the Court (the “Regulations”);
9. **NOTING** that, as regards legal representation, the 21 November 2008 Decision held that, in light of the similarity of their respective experiences and with a view to preserving the efficiency of the proceedings, applicants admitted as victims of the Case should be jointly represented by one common legal representative, and applicants admitted as victims in the context of the Situation should also be

¹² ICC-02/04-169-Conf-Exp; ICC-02/04-170.

¹³ ICC-02/04-171-Conf-Exp; ICC-02/04-172.

¹⁴ ICC-02/04-01/05-355-Conf-Exp; ICC-02/04-01/05-356.

jointly represented among themselves and together with victims admitted at an earlier stage of the present proceedings;

- 10. NOTING** that, in light *inter alia* of the budget constraints highlighted by the Registrar¹⁵, the 21 November 2008 Decision held that counsels in the OPCV should be appointed as common legal representatives and, accordingly, requested the OPCV to submit a report assessing the feasibility of the proposed arrangements;
- 11. NOTING** the “OPCV Report on legal representation of victims” with Annex confidential *ex parte* OPCV dated 28 November 2008¹⁶, as well as the Corrigendum thereto dated 1 December 2008¹⁷, whereby the OPCV suggested the appointment of two counsels from the Office, each of whom would represent a separate group of victims;
- 12. NOTING** that, in the view of the Office, appointment of two counsels would “prevent any conflict of interest from arising among victims’, as well as enable “a legal representation taking into account the specificities” of the two categories;
- 13. CONSIDERING** that the proposal of the Office appears in line with the approach taken by the 21 November 2008 Decision, which identified two categories of victims, namely victims admitted in the context of the Situation (including those admitted at an earlier stage of the proceedings) and victims of the Case;

¹⁵ “Report of the Registry on legal representation in accordance with the Decision of Pre-Trial Chamber II dated 10 August 2007 in accordance with Regulation 86 paragraph 5 of the Regulations of the Court”(ICC-02/04-113-Conf-Exp; ICC-02/04-01/05-265-Conf-Exp).

¹⁶ ICC-02/04-173 and ICC-02/04-173-Conf-Exp-Anx; ICC-02/04-01/05-358 and ICC-02/04-01/05-358-Conf-Exp-Anx.

¹⁷ ICC-02/04-173-Conf-Exp-Anx-Corr; ICC-02/04-01/05-358-Conf-Exp-Anx-Corr.

14. **CONSIDERING** however that, at this stage of the proceedings, it is appropriate to identify the two groups of victims by the neutral terms established by the 21 November 2008 Decision (ie, “victims of the Case” and “victims in the context of the Situation”), without any reference to the merits of their individual circumstances;
15. **CONSIDERING** that, in particular, the category of “former child soldiers” proposed by the OPCV does not seem to accurately encompass the personal circumstances of all applicants granted the status of victim in the context of the Situation;
16. **NOTING** that the 14 March 2008 Decision requested the Registrar to seek the views of Victims a/0117/06, a/0120/06 and a/0123/06 as regards their legal representation;
17. **NOTING** that the 21 November 2008 Decision requested the Registrar to seek the views of Victim a/0108/07 as regards his legal representation;
18. **NOTING** that such views are yet to be submitted to the Single Judge;
19. **CONSIDERING** that, accordingly, decision on legal representation of Victims a/0117/06, a/0120/06, a/0123/06 and a/0108/07 is deferred until their views are submitted to the Single Judge;
20. **NOTING** that the appointments made under the 15 February 2008 Decision were without prejudice to any future determination by the Chamber as regards common legal representation;

21. NOTING the detailed information provided by the OPCV as regards the organization of the Office, in particular the turnover of personnel expected in the next few months;

22. CONSIDERING that, accordingly, it appears appropriate to review in part the appointment of legal representatives made under the 15 February 2008 and the 17 November 2008 Decisions, with a view to ensuring continuity in the legal representation of the relevant victims;

HAVING REGARD THERETO AND FOR THESE REASONS,

DECIDE to revoke the appointment of Ms Adesola Adeboyejo as legal representative of Victims a/0066/06, a/0088/06, a/0090/06, a/0091/06, a/0092/06, a/0098/06, a/0102/06, a/0112/06, a/0115/06, a/0118/06, a/0122/06, a/0125/06 and a/0126/06;

APPOINT Ms Paolina Massidda, Principal Counsel in the OPCV, as legal representative of Victims a/0065/06, a/0066/06, a/0068/06, a/0088/06, a/0091/06, a/0092/06, a/0093/06, a/0096/06, a/0102/06, a/0115/06, a/0125/06, a/0126/06, a/0115/07, a/0117/07 and a/0118/07, granted the status of victim in the context of the Situation;

APPOINT Ms Sarah Pellet, Acting Counsel in the OPCV, as legal representative of Victims a/0090/06, a/0094/06, a/0095/06, a/0098/06, a/0103/06, a/0112/06, a/0118/06, a/0121/06, a/0122/06, a/0124/06, a/0076/07, a/0077/07, a/0078/07, a/0081/07, a/0082/07, a/0084/07, a/0085/07, a/0090/07, a/0091/07, a/0092/07, a/0093/07, a/0094/07, a/0095/07, a/0096/07, a/0097/07, a/0098/07, a/0099/07, a/0100/07, a/0101/07, a/0102/07, a/0103/07, a/0105/07, a/0106/07, a/0107/07, a/0112/07 and a/0123/07, granted the status of victim of the Case;

DEFER the decision on the legal representation of Victims a/0117/06, a/0120/06, a/0123/06 and a/0108/07 until their views are submitted.

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

Mauro Politi

Judge Mauro Politi
Single Judge

Dated this Monday, 9 February 2009

At The Hague, The Netherlands.