

**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**

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

Ms Paolina Massidda

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar & Deputy Registrar**

Ms Silvana Arbia & Mr Didier Daniel  
Preira

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Ms Fiona McKay

**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”),<sup>1</sup>

**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”),<sup>2</sup>

**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”);<sup>3</sup>

**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”).

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<sup>1</sup> ICC-02/05-01/09-31

<sup>2</sup> ICC-02/05-01/09-30-Conf-Exp and ICC-02/05-01/09-Conf-Exp-Annx 1-5

<sup>3</sup> 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, positioned above a solid horizontal line.

**Judge Sanji Mmasenono Monageng**

**Single Judge**

Dated this Tuesday 1 September 2009

At The Hague, The Netherlands