

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/09

Date: 26 May 2010

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 Setting a Time Limit for the Parties' Replies to 8 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, Prosecutor

Counsel for the Defence

Ms Michelyne C. Saint-Laurent

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Geoffrey Nice

Mr Rodney Dixon

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

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

NOTING the "Decision on the Designation of a Single Judge on Victims' Issues", issued on 19 August 2009, whereby the Chamber designated me as Single Judge responsible for all issues relating to applications for authorisation to participate as victims in the proceedings in the case of *The Prosecutor v. Omar Hassan Ahmad Al Bashir* ("Omar Al-Bashir Case");¹

NOTING the "Decision Ordering the Parties to submit their Observations on the Applications for Victims' Participation in the Proceedings" issued on 1 September 2009, wherein Ms Michelyne C. Saint-Laurent was appointed as Counsel for the Defence for the purposes of the proceedings regarding applications a/0011/06 to a/0013/06 and a/0015/06 for victims' participation in the Omar Al Bashir Case,² and the "Decision Ordering the Parties to Submit their Observations on Applications a/0443/09 to a/0450/09 for Participation as Victims in the Proceedings" issued on 6 November 2009, whereby the mandate of Ms Saint-Laurent was extended to the proceedings concerning applications a/0443/09 to a/0450/09;³

NOTING the "Report on applications a/0774/10 to a/0781/10 to participate in the proceedings" filed by the Registry on 3 May 2010,⁴ together with eight applications ("Applications") in which eight applicants ("Applicants") request to be authorised to participate in the pre-trial stage of the Omar Al-Bashir Case;

NOTING the "Report on supplementary information concerning applications a/0774/10 to a/0781/10 to participate in the proceedings" and "Annex 1" to it ("Annex 1"), filed on 26 May 2010 and containing additional information regarding the Applications;⁵

¹ ICC-02/05-01/09-31.

² ICC-02/05-01/09-38.

³ ICC-02/05-01/09-50.

⁴ ICC-02/05-01/09-82-Conf-Exp.

⁵ ICC-02/05-01/09-84-Conf-Exp; ICC-02/05-01/09-84-Conf-Exp-Anx1.

NOTING articles 57 (3) (c), 54 (1) (b) and 68 (3) of the Rome Statute (“Statute”); rules 86 and 89 (1) of the Rules of Procedure and Evidence (“Rules”); as well as regulations 33, 76 (1) and 86 of the Regulations of the Court (“Regulations”);

CONSIDERING that pursuant to rule 89 (1) of the Rules, the Prosecutor and the Defence are entitled to reply to applications for participation in the proceedings within a time limit to be set by the Chamber;

CONSIDERING that article 68 (3) of the Statute requires that the manner in which victims participate in the proceedings should not be prejudicial to or inconsistent with the rights of the suspect and a fair and impartial trial;

CONSIDERING that the interests of justice require that Ms Michelyne C. Saint-Laurent, who has represented Omar Hassan Ahmad Al-Bashir (“Mr Al Bashir”) in other proceedings concerning applications for victims’ participation in the present case, should represent him with respect to matters relating to the present Applications, including the receipt of copies of and a reply to the Applications;

CONSIDERING that pursuant to articles 68 (1) and 57 (3) (c) of the Statute, the Court shall take appropriate measures to protect *inter alia* the safety, privacy, physical and psychological well-being of victims and that these measures shall not be prejudicial to or inconsistent with the rights of the suspect and a fair and impartial trial;

CONSIDERING that, in view of the nature and purpose of the present proceedings, redactions from the Applications are an appropriate measure of protection and that this measure is not prejudicial to or inconsistent with the rights of Mr Al Bashir;

CONSIDERING that the identities of the Applicants can be disclosed to the Prosecution, since the Applicants submitted that they are content for the Prosecution to receive their

applications un-redacted,⁶ and the Prosecution is expressly charged with respecting the interests and personal circumstances of victims (article 54 (l) (b) of the Statute);

CONSIDERING that Applicants a/0776/10, a/0777/10, a/0778/10, a/0779/10, a/0781/10 do not wish their names to be disclosed to the Defence at this stage;

CONSIDERING that in view of these Applicants' concerns about their security, identifying information should be redacted from the copies of their Applications which are to be transmitted to the Counsel for the Defence;

CONSIDERING that Applicants a/0774/10, a/0775/10 and a/0780/10 agree to their names being disclosed to the Defence providing that their names are not made public in any way;

CONSIDERING that, in view of these Applicants' consent, which appears to have been given upon consultation with their Legal Representatives, there is no need to redact these Applicants' names;

CONSIDERING, however, that Applicants a/0774/10, a/0775/10 and a/0780/10 do not expressly consent to the disclosure of their addresses and contact details to the Defence, and that in view of the level of security in the area of their residence it is preferable that such data should be redacted from their Applications;

FOR THESE REASONS,

APPOINT Ms Michelyne C. Saint-Laurent as *ad hoc* Counsel for the Defence of Mr Al Bashir, to represent Mr Al Bashir in relation to the proceedings concerning the Applications for participation in the Omar Al-Bashir Case;

ORDER the Registry to provide, no later than on 28 May 2010:

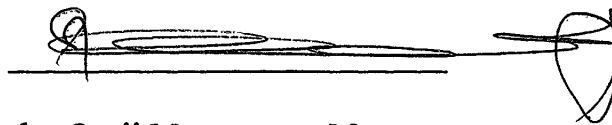
⁶ ICC-02/05-01/09-82-Conf-Exp-Anx1.

- (i) the Prosecution with non-redacted copies of the Applications and Annex 1;
- (ii) the Counsel for the Defence with copies of Applications a/0774/10, a/0775/10 and a/0780/10, from which only addresses and contact details of the Applicants are redacted; and
- (iii) the Counsel for the Defence with copies of Applications a/0776/10, a/0777/10, a/0778/10, a/0779/10, a/0781/10 and Annex 1, from which names, addresses and other sensitive information which could lead to identification of the Applicants are redacted;

GRANT the Prosecution and the Counsel for the Defence until 18 June 2010 to reply to the Applications; and

ORDER all participants in the proceedings to only refer to the Applicants by the numbers assigned to them by the Registry.

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

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a circular flourish at the end.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this 26 May 2010

At The Hague, The Netherlands