

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/05  
Date: 18 May 2009

**PRE-TRIAL CHAMBER I**

**Before: Judge Cuno Tarfusser, Single Judge**

**SITUATION IN DARFUR, SUDAN**

**Public Document**

**Decision on the filing of Annex 4 to the Application under Rule 103**

Document to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

Mr. Luis Moreno-Ocampo

Mr. Essa Faal

**Counsel for the Defence**

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**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

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

Sir Geoffrey Nice QC

Rodney Dixon

**I, Judge Cuno Tarfusser**, judge at the International Criminal Court (the "Court");

**NOTING** the "Decision on the designation of a Single Judge of Pre-Trial Chamber I" dated 26 March 2009,<sup>1</sup> whereby Pre-Trial Chamber I (the "Chamber") designated Judge Cuno Tarfusser as Single Judge responsible for carrying out the functions of the Chamber in relation to the proceedings of the situation in Darfur, Sudan (the "Situation") and any related cases emanating therefrom;

**NOTING** the "Application on behalf of Citizens' Organisations of the Sudan in relation to the Prosecutor's Applications for Arrest Warrants of 14 July 2008 and 20 November 2008" (the "Application"),<sup>2</sup> filed on 11 January 2009 by the Sudan Workers Trade Unions Federation and the Sudan Defence Group (the "Applicants");

**NOTING** the "Supplement to the Application and Annexes to the Application on behalf of Citizens' Organisations of the Sudan in relation to the Prosecutor's Application for Arrest Warrants of 14 July 2008 and 20 November 2008" (the "Supplement to the Application"),<sup>3</sup> filed by the Applicants on 3 February 2009;

**NOTING** the "Decision on Application under Rule 103",<sup>4</sup> dated 4 February 2009, whereby the Chamber decided not to grant leave to the Applicants pursuant to rule 103 of the Rules of Procedure and Evidence;

---

<sup>1</sup> ICC-02/05-210.

<sup>2</sup> ICC-02/05-170.

<sup>3</sup> ICC-02/05-182.

<sup>4</sup> ICC-02/05-185.

**NOTING** the “Application for Leave to Appeal Against Decision on Application under Rule 103”,<sup>5</sup> filed by the Applicants on 11 February 2009;

**NOTING** the “Report on documents submitted after the issuance of the ‘Decision on Application under Rule 103’”,<sup>6</sup> dated 17 February 2009;

**NOTING** the “Decision on the Application for Leave to Appeal the Decision on Application under Rule 103”,<sup>7</sup> issued by the Chamber on 19 February 2009;

**NOTING** the “Clarification for the Record of Annex 4 to the Application under Rule 103”,<sup>8</sup> filed by the Applicants on 24 April 2009;

**NOTING** the “Registrar’s Submissions pursuant to Regulation 24 *bis* of the Regulations of the Court in response to the Document entitled ‘Clarification for the Record of Annex 4 to the Application under Rule 103’” dated 29 April 2009;<sup>9</sup>

**NOTING** the “Application for Leave to Reply and Reply of the Applicants to the Registry’s Response of 1 May 2009” filed by the Applicants on 15 May 2009;<sup>10</sup>

**NOTING** that the Applicants, whilst identifying a number of petitions signed by Sudanese citizens (the “Petitions”) as “Annex 4” to the Application<sup>11</sup>, did

---

<sup>5</sup> ICC-02/05-187.

<sup>6</sup> ICC-02/05-191.

<sup>7</sup> ICC-02/05-192.

<sup>8</sup> ICC-02/05-220.

<sup>9</sup> ICC-02/05-222-tENG.

<sup>10</sup> ICC-02-05-223.

not provide the signature sheets of the Petitions to the Registrar at the time of the filing of the Application and undertook to forward copies of the Petitions “from Sudan to the Pre-Trial Chamber very shortly”.<sup>12</sup>

**NOTING** that the Petitions were equally identified by the Applicants as “Annex 4” to the Supplement to the Application<sup>13</sup>, stating that “as the signature sheets of the petitions [were] voluminous, the Applicants [were] arranging for the signed petitions to be brought from Sudan to the ICC and filed through the Registry on Monday 9 February 2009” and that “arrangements ha[d] been made with the Registry to this effect”;<sup>14</sup>

**NOTING** that, as concurrently stated by both the Applicants and the Registrar, on 9 February 2009 a representative of the Applicants did indeed deliver the Petitions in five marked boxes to a representative of the Registrar and that, on 17 February 2009, the Registry returned these five boxes together with a letter informing the Applicants that the Registry would not file any document pertaining to the Application received following the Decision issued by the Chamber on 4 February 2009;

**NOTING** rule 15(1) of the Rules, providing that “the Registrar shall keep a database containing all the particulars of each case brought before the Court”;

**CONSIDERING** that, whilst materially received by the Registry at a later stage, the Petitions were annexed to, and therefore part of, the Application and of the Supplement to the Application;

---

<sup>11</sup> ICC-02/05-171-Anx4.

<sup>12</sup> The Application at 3 (footnote 4).

<sup>13</sup> ICC-02/05-182-Anx4.

<sup>14</sup> The Supplement, para. 7.

**CONSIDERING** that, accordingly, the Petitions cannot be regarded as an autonomous document independently filed after the issuance of the Decision;

**CONSIDERING** that the delay in submitting the Petitions may be considered as justified in light of their voluminous nature and the logistic difficulties inevitably arising in connection with the need to materially deliver hard copies thereof at the seat of the Court;

**CONSIDERING** that, irrespective of the fact that the Applicants were denied the status of *amici curiae* under rule 103 of the Rules, there is a need to ensure that the judicial record is complete with a view to ensuring the transparency of proceedings;

**CONSIDERING**, however, that the material filing of the Petitions may require that the Registry invest a significant amount of time and resources which might prejudice the orderly carrying out of its functions in respect of current proceedings;

**CONSIDERING** that, following the Decision, the procedural phase to which the Applicants participated is concluded and they no longer have the status of participants in the proceedings;

**CONSIDERING** that, accordingly, the filing of the Petitions shall not be considered a priority;

**CONSIDERING** that, accordingly, the Registrar should implement the filing of the Petitions (i) by identifying the least time- and resource-consuming methods (also in light of the fact that the Applicants assigned to all of them one single identification number in both the Application and the Supplement)

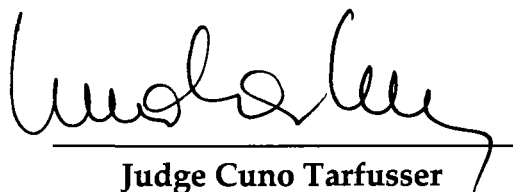
and (ii) by following a schedule which does not affect the orderly and prompt exercise of its functions in respect of other proceedings currently ongoing;

**FOR THESE REASONS,**

**ORDER**

the Registrar to file the Petitions in the record of the Situation as Annex 4 to the Application (ICC-02/05-170) and to the Supplement to the Application (ICC-02/05-182) in compliance with this Decision.

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



**Judge Cuno Tarfusser**

Dated this Monday, 18 May 2009

At The Hague, The Netherlands