

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

No.: ICC-02-05  
Date: 21 August 2007

**PRE-TRIAL CHAMBER I**

**Before: Judge Anita Ušacka, Single judge**

**Registrar: Mr Bruno Cathala**

**SITUATION IN DARFUR, SUDAN**

**Public Document**

**Decision on the Requests of the OPCD and the Legal Representatives of the Applicants Regarding the Transmission of the Report of the Registry under Rule 89 of the Rules of Evidence and Procedure**

**The Office of the Prosecutor**

Mr Luis Moreno Ocampo, Prosecutor  
Ms Fatou Bensouda, Deputy Prosecutor  
Mr Ade Omofade , Trial Lawyer

**Legal Representatives of the Applicants**

Ms Wanda M. Akin  
Mr Raymond M. Brown

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

Mr Xavier-Jean Keïta, Principal Counsel

**I, Judge Anita Ušacka**, judge at the International Criminal Court (the “Court”);

**NOTING** the applications for participation in the proceedings a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07<sup>1</sup> (“the Applications”) all filed confidential, *ex parte* on 10 July 2007 in the record of the Situation in Darfur, Sudan, seeking recognition of the right to participate as victims in the proceedings in the situation in Darfur, Sudan;

**NOTING** the “Decision authorizing the filing of observations on application a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 for participation in the proceedings”, issued by the Single Judge on 23 July 2007, giving the Prosecution and the Office of the Public Counsel for the defence (“OPCD”) the opportunity to submit their observations on the Applications for participation in the proceedings, within 30 days from notification;<sup>2</sup>

**NOTING** the “Request for Access to the Report of the Registry, and an Extension of Page Limit” filed on 01 August 2007, requesting the Chamber to, *inter alia*, order the Registry to transmit the Report from the Registry on the Applications to the OPCD;<sup>3</sup>

**NOTING** the “Decision suspending the time limit for the submission of observations on applications for participation in the proceedings” issued by the single Judge on 2 August 2007 in which the Single Judge suspended the time limit for filing observations until otherwise decided by the Single Judge;<sup>4</sup>

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<sup>1</sup> ICC-02/05-84-Conf-Exp – Anx I - 18

<sup>2</sup> ICC-02/05-85.

<sup>3</sup> ICC-02/05-87- Conf

<sup>4</sup> ICC-02/05-88.

**NOTING** the “Request on Behalf of Applicants a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07” which requests that the Report of the Registry not be transmitted to the OPCD and the OTP and requests the Chamber to order the transmission of a redacted copy of the Report to the Legal Representatives;<sup>5</sup>

**NOTING** the “Decision on the Requests of the Legal Representative of Applicants on application process for victims’ participation and legal representation” filed in the Situation of the Democratic Republic of Congo (“the DRC situation”) on 20 August 2007, which, *inter alia*, grants the request of the Legal Representative to notify only the applications for participation to the Prosecution and the OPCD and not the Report of the Registry;<sup>6</sup>

**NOTING** rule 89(1) of the Rules of Procedure and Evidence (“the Rules”);

**CONSIDERING** that the Chamber stated in its decision of 17 August 2007 in the DRC situation that “its only obligation under rule 89(1) of the Rules is to order the Registry to provide the Prosecution and defence with copies of the Applications, such that they may make observations on the Applications within a time limit set by the Chamber” and that “in other words, rule 89 of the Rules does not direct the Chamber to transmit the Report”;<sup>7</sup>

**CONSIDERING** that the Chamber stated further that “the Chamber will instruct the Registry that only complete Applications should be transmitted” which “will ensure that the Prosecution and the OPCD will receive all of the information required for

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<sup>5</sup> ICC-02/05-90.

<sup>6</sup> ICC-01/04-374.

<sup>7</sup> ICC-01/04-374, para. 35.

them to exercise their right to make observations pursuant to rule 89(4) of the Rules”;<sup>8</sup>

**CONSIDERING** that the Chamber also stated that there is “no express provision in the Statute or the Rules requiring the Chamber to transmit the Report to the participants” and “that the function of the Report is to assist *the Chamber* in issuing only one decision on a number of Applications”;<sup>9</sup>

**FOR THESE REASONS**

**REJECT** the requests that the Chamber order that the Report of the Registry be transmitted to the OPCD and the Legal Representative;

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



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**Judge Anita Ušacka**  
**Single judge**

Dated this Tuesday 21 August 2007

At The Hague

The Netherlands

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<sup>8</sup> ICC-01/04-374, para. 37.

<sup>9</sup> ICC-01/04-374, para. 38.