

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/04
Date: 19 March 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Ekaterina Trendafilova

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Public Document

**Decision on Notification of the Trust Fund for Victims and on its Request for
Leave to respond to OPCD's Observations on the Notification**

The Office of the Prosecutor
Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Eric MacDonald, Trial Lawyer

Office of Public Counsel for Defence
Mr Xavier-Jean Keïta

**Legal Representative of victims a/101/06
and a/0119/06**
Ms Paolina Massidda

**Legal Representative of victims
a/0090/06, a/0098/06, a/0112/06, a/0118/06
and a/0122/06**
Ms Adesola Adeboyejo

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court (the “Court”);

NOTING the “Notification of the Board of Directors of the Trust Fund for Victims in accordance with Regulation 50 of the Regulations of the Trust Fund for Victims with Confidential Annex” (the “Notification”), filed by the Board of Directors (“the Board”) of the Trust Fund for Victims (the “TFV”) in the record of the situation in Uganda (the “Situation”) on 28 January 2008, indicating the intention to undertake specific activities in Uganda (the “proposed activities”);¹

NOTING the “Observations du représentant légal des victimes a/0101/06 et a/0119/06 suite à la notification du Conseil de direction du Fonds au profit des victimes conformément à la règle 50 du Règlement du Fonds”, filed in the record of the Situation on 18 February 2008;²

NOTING the “Prosecution’s Observations on the ‘Notification of the Board of Directors of the Trust Fund for Victims’”, filed in the record of the Situation on 19 February 2008;³

NOTING the “Corrigendum to Prosecution’s Observations on the ‘Notification of the Board of Directors of the Trust Fund for Victims’”, filed in the record of the Situation on 19 February 2008;⁴

NOTING the “Decision on Observations on the Notification under Regulation 50 of the Regulations of the Trust Fund for Victims”, filed in record of the Situation⁵ and in

¹ ICC-02/04-114 and ICC-02/04-114-Conf-Anx.

² ICC-02/04-118.

³ ICC-02/04-119.

⁴ ICC-02/04-119-Corr.

the record of the case of *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*⁶ (the “Case”) on 5 March 2008;

NOTING the “Observations of legal representatives of victims on the Notification of the Board of Directors of the Trust Fund for Victims”, filed in the record of the Situation⁷ and in the record of the Case⁸ on 12 March 2008;

NOTING the “OPCD observations on the Notification under Regulation 50 of the Regulations of the Trust Fund for Victims” (the “Observations of the OPCD”), filed in the record of the Situation⁹ and in the record of the Case¹⁰ on 12 March 2008;

NOTING the “Board of Directors of the Trust Fund for Victims’ application for leave to respond to the ‘OPCD observations on the Notification under Regulation 50 of the Regulations of the Trust Fund for Victims’” (the “Board’s Request”), filed in the record of the Situation¹¹ and in the record of the Case¹² on 14 March 2008;

NOTING that under article 79 (1) of the Rome Statute (the “Statute”) the TFV was “established by decision of the Assembly of States Parties¹³ for the benefit of victims of crimes within the jurisdiction of the Court...”;

NOTING that, in addition to the mandate provided for in article 79 (2) of the Statute and rule 98 (1) to (4) of the Rules of Procedure and Evidence (the “Rules”), related to resources pursuant to orders of the Court, the TFV has a further mandate under rule

⁵ ICC-02/04-120.

⁶ ICC-02/04-01/05-275.

⁷ ICC-02/04-121.

⁸ ICC-02/04-01/05-277.

⁹ ICC-02/04-122.

¹⁰ ICC-02/04-01/05-279.

¹¹ ICC-02/04-123.

¹² ICC-02/04-01/05-280.

¹³ ICC-ASP/1/Res.6.

98 (5) of the Rules and chapter II of the Regulations of the Trust Fund for Victims¹⁴ (the "TFV Regulations"), related to other resources to be used for the benefit of victims;

CONSIDERING that the proposed activities fall within the ambit of chapter II of the TFV Regulations;

CONSIDERING further that the power of the Chamber to scrutinize activities and projects of the TFV under chapter II of the TFV Regulations is in principle governed by the criteria laid down in regulation 50 (a)(ii) of the TFV Regulations which provides, *inter alia*, that the relevant Chamber may "inform the Board in writing that a specific activity or project, pursuant to rule 98, sub-rule 5 of the Rules of Procedure and Evidence, would pre-determine any issue to be determined by the Court, including jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial";

NOTING that regulation 50 (a)(iii) of the TFV Regulations provides that "[a]fter the expiry of the relevant time period and, unless the Chamber has given an indication to the contrary based in sub-paragraph (a)(ii), the Board may proceed with the specified activities";

CONSIDERING that consequently activities and projects under chapter II of the TFV Regulations should not be implemented prior to a tacit or explicit determination by the Chamber;

¹⁴ ICC-ASP/4/Res.3.

NOTING that the proposed activities, as defined in the Notification, concern Northern Uganda and are aimed at providing physical and psychological rehabilitation and material support, as foreseen in regulation 50 (a)(i) of the TFV Regulations, to groups of victims who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;

CONSIDERING that the proposed activities are defined in general and nondiscriminatory terms, without reference to any identified alleged perpetrator, specific crime or location or individually identified victim and thus they are not incompatible with the criteria laid down in regulation 50 (a)(ii) of the TFV Regulations;

CONSIDERING further that the information available to the Chamber is sufficient for it to make a determination on the proposed activities;

CONSIDERING accordingly that, in so far as it was aimed at designating the Board as a participant in order to respond to or comment on the Observations of the OPCD, the Board's Request has become moot and does not require further examination;

FOR THESE REASONS,

DISMISSES the Board's Request;

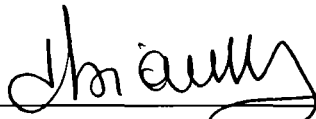
DECIDES to approve the proposed activities;

DECIDES that the implementation of the proposed activities should not go beyond the descriptions outlined in the Notification, as approved by the Chamber;

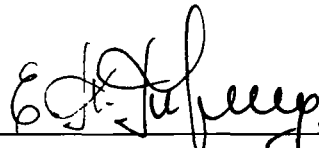
Done in both English and French, the English version being authoritative.



Judge Mauro Politi
Presiding Judge



Judge Fatoumata Dembele Diarra



Judge Ekaterina Trendafilova

Dated this 19 March 2008

At The Hague, The Netherlands