



Original: English

No.: ICC-02/04-01/15
Date: 28 October 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

**SITUATION IN UGANDA
IN THE CASE OF *THE PROSECUTOR v. DOMINIC ONGWEN***

Public

**Order to the Registrar in relation to the legal representation of victims
participating in the proceedings**

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Benjamin Gumpert

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Legal Representatives of the 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

Herman von Hebel

Counsel Support Section

Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

Other

Judge Cuno Tarfusser, Single Judge exercising the functions of the Chamber in the present case, issues this order to the Registrar in relation to the legal representation of victims participating in the proceedings.

1. The Registrar transmitted to the Chamber and the parties 209 applications by victims to participate in the proceedings in the case on 18 September 2015 (ICC-02/04-01/15-303 and annexes) and further 336 applications on 26 October 2015 (ICC-02-04-01/15-327 and annexes).

2. In the report accompanying the latest transmission, the Registrar states:

Since the First Report, the Registry has received powers of attorney relating to the applicants in this Case in favour of two lawyers currently registered on the ICC List of Counsel. The Registry notes that many of these applicants met by the Registry's staff in the field have expressed concerns about their legal representation and their wish to have the counsel they have chosen to represent them before the Court appointed as soon as possible in order to have their views and concerns conveyed in the proceedings.

3. In the accompanying footnote, the Registrar clarifies that these powers of attorney concern at least 39 applicants whose applications were transmitted on 18 September 2015 and 50 applicants whose applications were transmitted on 26 October 2015.

4. As provided by rule 90(1) of the Rules of Procedure and Evidence ("Rules"), a victim is in principle free to choose a legal representative. Thus, on the condition that an applicant is admitted to participate, a counsel they have provided with a valid power of attorney may represent them and, to the contrary of what appears to be the understanding of the Registrar, no "appointment" by the Chamber is necessary. This is, however, without prejudice to the organisation of common legal representation under rule 90(3) and (4) or the appointment of a legal representative by a Chamber when the interests of justice so require, under regulation 80 of the Regulations of the Court.

5. The procedure applicable in the present situation is that provided for in regulation 123(1) of the Regulations of the Registry, which specifies that the Registrar shall acknowledge the issuance of power of attorney and shall notify the acknowledgement to the person who has chosen the counsel, to the counsel, to the Chamber and to the competent authority exercising regulatory and disciplinary powers over counsel in the national order. This procedure of acknowledgment necessarily includes a confirmation by the Registrar that the power of attorney is valid.

6. The Single Judge notes that 198 applicants whose applications were transmitted on 18 September 2015 and were not opposed by either party were automatically admitted to participate in the proceedings upon expiration of time limit for parties' objections, *i.e.* on 5 October 2015 (see ICC-02/04-01/15-299, ICC-02/04-01/15-309 and ICC-02/04-01/15-312-Conf). Any powers of attorney given by these victims admitted to participate in the proceedings must immediately be verified and, if appropriate, acknowledged. Furthermore, the acknowledgement must be notified to the Chamber. Simply informing the Chamber that the Registrar has received powers of attorney is inadequate and causes delay in the effective participation of victims in the proceedings.

7. In addition, in order to enable the Single Judge to take any necessary decisions in relation to the organisation of legal representation of victims in the record of the case, it is appropriate to order the Registrar to verify the powers of attorney received from any persons whose applications for participation are pending and confirm whether, if the person is admitted, the Registrar will be able to acknowledge the issuance of the power of attorney. Indeed, only when being informed of which victims have validly chosen legal representatives, and which legal representatives they have chosen, can the

Single Judge consider questions such as common legal representation or the need for appointment of a legal representative in the interests of justice.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Registrar to verify and, if appropriate, acknowledge, in compliance with regulation 123(1) of the Regulations of the Registry, the powers of attorney issued by victims currently admitted to participate in the proceedings in the case, by 11 November 2015;

ORDERS the Registrar to verify the powers of attorney issued by victims whose applications for participation are currently pending, and inform the Chamber of any powers of attorney that can be acknowledged under regulation 123 of the Regulations of the Registry should the applicant be admitted to participate, by 11 November 2015.

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

A handwritten signature in dark ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this 28 October 2015

At The Hague, The Netherlands