

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-02/09
Date: 11 September 2009

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR

IN THE CASE THE PROSECUTOR V. BAHAR IDRIS ABU GARDA

Public Document

Decision on the Prosecutor's requests for extension of time-limit

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
Mr Essa Faal, Senior Trial Lawyer

Counsel for the Defence
Mr Karim A.A. Khan

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
Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I, Judge Cuno Tarfusser, Single Judge responsible for carrying out the functions of the Chamber in relation to the proceedings of the situation in Darfur, Sudan and any related cases emanating therefrom, including the case of *The Prosecutor v Bahar Idriss Abu Garda*, at the International Criminal Court;

NOTING the “Second Decision on issues relating to disclosure” dated 15 July 2009, whereby Pre-Trial Chamber I ordered the Prosecutor *inter alia* (i) “pursuant to rule 76 of the Rules, to disclose to the Defence, as soon as practicable and no later than Thursday 10 September 2009, in original and in a language Mr Bahar Idriss Abu Garda fully understands and speaks, the names and the statements of the witnesses - with authorized redactions pursuant to rule 81 of the Rules, if any - on which it intends to rely at the confirmation hearing, regardless of whether the Prosecution intends to call them to testify” and (ii) “to file in the record of the Case by Thursday 10 September 2009 the Prosecution Charging Document and the List of Evidence in the case of *The Prosecutor v. Bahar Idriss Abu Garda* in a language which the person fully understands and speaks”;

NOTING the “Prosecution’s Submission of Revised Summaries to be relied upon in lieu of the Transcripts of Witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP- WWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP- WWW-0314, And Request for Extension of Time to file Arabic Translation of Revised Summaries of Transcripts of Interviews of Witnesses DAR-OTP-WWWW-0304, DAR-OTPW- 0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTPW- 0312 and DAR-OTP-WWWW-0314” dated 10 September 2009, whereby the Prosecutor requested an extension of time of seven days pursuant to regulation 35(2) of the Regulations of the Court (the “Regulations”), based on the fact that the “voluminous nature” of the relevant summaries only allowed him to complete their revised version on 10 September 2009 and, accordingly, additional time for the revised summaries to be translated into the Arabic language would be required;

NOTING the "Request for Extension of Time to file Arabic translation of List of Evidence" filed on 10 September 2009, whereby the Prosecutor requested for an extension of 24 hours within which to submit the Arabic translation of the List of Evidence, pursuant to regulation 35(2) of the Regulations, based on the fact that "the resources available have not made it possible for the task to be completed in time to meet the above deadline";

NOTING article 67(1)(a) of the Statute of the Court, rules 76, 121(3) and 121(7) of the Rules of Procedure and Evidence, and regulation 35 of the Regulations;

NOTING the Prosecutor's inability to meet critical time limits in spite of the considerable advance in which they have been set, as well as his reiterated practice of submitting requests for extension of time limit so close to the moment of their expiration as to make it impossible for the Chamber to decide and for the Prosecutor to comply with the time limit originally granted, if the extension of the deadline were to be denied;

CONSIDERING that both the list of evidence and the statements of witnesses on which the Prosecutor intends to rely at the confirmation hearing are critical documents with a view to preserving the right of the accused to "be informed promptly and in detail of the nature, cause and content of the charge", therefore to be provided "in a language which the accused fully understands and speaks";

CONSIDERING further that both the "voluminous nature" of the materials at stake and the amount of "resources available" hardly qualify as "good cause" within the meaning of regulation 35(2) of the Regulations and that, accordingly, the Prosecutor's Requests could be rejected;

CONSIDERING, however, that both the list of evidence and the summaries were timely submitted in one working language of the Court;

CONSIDERING further that it is possible for the Chamber to postpone the date of the confirmation hearing so as to comply with the requirement that the hearing takes

place not earlier than thirty days following the provision of the document containing the charges and the list of evidence;

CONSIDERING that the Prosecutor's request relating to the summaries does not contain any information in respect of which there is a need for confidentiality *vis-à-vis* the Defence and that, accordingly, such request shall be reclassified as "confidential" pursuant to regulation 23bis(3) of the Regulations;

FOR THESE REASONS

DECIDE

to grant the Prosecutor until Thursday 17 September 2009 at 16:00 hours to submit the Arabic version of the list of evidence and of the relevant witnesses' summaries and therefore;

DECIDE

to postpone the confirmation hearing until Monday 19 October 2009 and

DECIDE

to postpone until Thursday 1 October 2009 the time limits for the Defence originally set at 24 September 2009 pursuant to the Second decision on issues relating to disclosure;

ORDER

the Registrar to reclassify as "*confidential*" document "ICC-02/05-02/09-93-Conf-Exp"

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



Judge Cuno Tarfusser

Single Judge

Dated this Friday, 11 September 2009

At The Hague, the Netherlands