

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-02/09
Date: 29 January 2010

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN DARFUR, SUDAN

IN THE CASE OF THE PROSECUTOR V. BAHAR IDRIS ABU GARDA

Public Document

**Decision Setting a Time Limit for the Parties' Replies to 20 Applications for
Victims' Participation in the Proceedings**

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
Ms Fatou Bensouda
Mr Essa Faal

Counsel for the Defence

Mr Karim A. A. Khan
Mr Andrew J. Burrow

Legal Representatives of the Victims

Mr Brahim Koné
Ms Héléne Cissé
Mr Akin Akinbote
Mr Frank Adaka

Legal Representatives of the Applicants

Ms Héléne Cissé

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keita

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Daniel Preira

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

I, Judge Sanji Mmasenono Monageng, Judge of Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”);

NOTING the “Decision on the Designation of a Single Judge on Victims’ Issues”, issued on 19 August 2009, whereby I was designated Single Judge responsible for all issues relating to victims’ participation in the proceedings in the case of *The Prosecutor v. Bahar Idriss Abu Garda* (the “Abu Garda Case”)¹;

NOTING the “Third Report on applications to participate in the proceedings” filed by the Registry on 12 January 2010,² together with Applications a/0655/09, a/0656/09, a/0736/09, a/0737/09, a/0738/09, a/0739/09, a/0740/09, a/0741/09, a/0742/09, a/0743/09, a/0744/09, a/0745/09, a/0746/09, a/0747/09, a/0750/09, a/0751/09, a/0752/09, a/0753/09, a/0754/09, a/0755/09³, wherein the Applicants request to be granted the right to participate in the proceedings in the Abu Garda Case as victims;

NOTING the “Filing of further supplementary information in relation to applications a/0742/09 and a/0747/09”⁴ (“Supplementary Information”) filed by the Victims Participation and Reparation Section (“the VPRS”) on 28 January 2010, together with Annexes 1 and 2, wherein clarified that, contrary to what they seemed to indicate in their application forms, Applicants a/0742/09 and a/0747/09 wish to participate in the proceedings;⁵

NOTING articles 54 (1)(b), (3)(f), 57(3)(c) and 68(3) of the *Rome Statute* (“the Statute”), rule 89(1) of the *Rules of Procedure and Evidence* (“the Rules”), regulations

¹ ICC-02/05-02/09-55, p. 4.

² ICC-02/05-02/09-238-Conf-Exp.

³ ICC-02/05-02/09-238-Conf-Exp, Anx2-Anx21.

⁴ ICC-02/05-02/09-239-Conf-Exp.

⁵ ICC-02/05-02/09-239-Conf-Exp-Anx1 and ICC-02/05-02/09-239-Conf-Exp-Anx2.

33, 34, 81(4) and 86 and 87(3) of the *Regulations of the Court* (“the Regulations”) and regulation 99(4) of the Regulations of the Registry;

CONSIDERING that Applicants a/0736/09, a/0737/09, a/0738/09, a/0739/09, a/0740/09, a/0741/09, a/0742/09, a/0743/09, a/0744/09, a/0745/09, a/0746/09, a/0747/09, a/0750/09, a/0751/09, a/0752/09, a/0753/09, a/0754/09, a/0755/09 have not yet chosen a Legal Representative;

CONSIDERING that at this phase between the filing of the Applications and the decision on their merits, the lack of legal representation causes no prejudice to these Applicants;

CONSIDERING that rule 89(1) of the Rules requires the transmission of the Applications to the Prosecution and the Defence, who are entitled to reply;

CONSIDERING that the identities of the Applicants can be disclosed to the Prosecution, since the Prosecution is expressly charged with respecting the interests of victims and with the protection of persons (article 54 (1)(b) and (3)(f) of the Statute) and that, pursuant to regulation 86 of the Regulations, can be requested to provide the Registry with further information about the Applications or the applicants;

CONSIDERING that, on the other hand, before a decision on the merits is issued, there is no need to disclose to the Defence the identities of the applicants, since once authorization for participation is granted, the victims are entitled to decide whether to remain anonymous or disclose their identities to the Defence, in accordance with rule 87(3) of the Rules and regulation 99(4) of the Regulations of the Registry;

CONSIDERING however that, since Applicants a/0655/09 and a/0656/09 were Prosecution witnesses for the purpose of the confirmation of charges and that their identity is known to the Defence, there is no need to apply any protective measures with respect to their applications;

FOR THESE REASONS:

ORDER the Registry to provide by Tuesday 2 February 2010 at 16h00:

- (i) the Prosecution and the Defence with non-redacted copies of Applications a/0655/09 and a/0656/09;
- (ii) the Prosecution with non-redacted copies of Applications a/0736/09 to a/0747/09, a/0750/09 to a/0755/09 and annexes 1 and 2 of the Supplementary Information; and
- (iii) the Defence of Bahar Idriss Abu Garda with copies of Applications a/0736/09 to a/0747/09, a/0750/09 to a/0755/09 and annexes 1 and 2 of the Supplementary Information, in which names, addresses and other sensitive information which could lead to the Applicants' identification are redacted.

GRANT the Prosecution and the Defence until 23 February 2010, at 16h00, to reply to the 20 Applications.

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

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above the printed name of the judge.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Friday 29 January 2010

At The Hague, The Netherlands