

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-02/09

Date: 8 March 2010

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR, SUDAN

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

Public Document

**Decision on the Defence Application for variation of time limit for filing of
application for leave to appeal**

Document 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

Counsel for the Defence

Mr. Karim A.A. Khan

Legal Representatives of Victims

Mr Brahim Koné

Ms Hélène Cissé

Mr Akin Akinbote

Mr Frank Adaka

Legal Representatives of 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

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

I, Judge Cuno Tarfusser, Single Judge responsible for carrying out the functions of Pre-Trial Chamber I 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;¹

NOTING the “Decision on the Confirmation of Charges” issued on 8 February 2010,² whereby the Chamber (i) declined to confirm the charges against Bahar Idriss Abu Garda and (ii) decided that “the five-day period for the parties to present an application for leave to appeal in accordance with rule 155(1) of the Rules shall start to run with effect from the date of notification of the Arabic translation of this Decision”;

NOTING the “Defence Application for variation of time limit for filing of application for leave to appeal” filed on 25 February 2010,³ whereby the Defence (i) waived its right to await the Arabic translation of the Confirmation Decision before deciding on whether it wishes to seek leave to appeal in respect of such decision and (ii) requested the Chamber to vary the time limit for the filing of applications for leave to appeal by lifting the suspension of the commencement of the five-day period under rule 155(1) of the Rules of Procedure and Evidence;

NOTING the “Prosecution’s Response to Defence Application for Variation of Time Limit Submitted Pursuant to Decision of the Single Judge of 4 March 2010”,⁴ wherein the Prosecutor did not take any position on the Defence

¹ ICC-02/05-210.

² ICC-02/05-02/09-243-Conf.

³ ICC-02/05-02/09-246.

⁴ ICC-02/05-02/09-248.

application, leaving it in the hands of the Single Judge to decide on such application;

NOTING article 67(1)(f) of the Statute of the Court, rules 101(1) and 155(1) of the Rules of Procedure and Evidence and regulation 35 of the Regulations of the Court;

CONSIDERING that the decision to suspend the commencement of the five-day period for leave to appeal the Confirmation Decision until receipt of the Arabic translation was taken by the Chamber only in order to safeguard the rights of Bahar Idriss Abu Garda before the Court and, in particular, his right to translation of documents pursuant to article 67(1)(f) of the Statute, which is of such a nature that it can be waived by the suspect;

CONSIDERING therefore appropriate, in light the waiver of the right under article 67(1)(f) of the Statute made by the Defence as well as the provision of rule 101(1) of the Rules of Procedure and Evidence, to lift the suspension of the commencement of the five-day deadline under rule 155(1) of the Rules of Procedure and Evidence and, accordingly, to decide that the time limit for the filing of any application for leave to appeal the Confirmation Decision shall start to run with effect from the date of notification of the present decision;

FOR THESE REASONS

DECIDE

to lift the suspension of the commencement of the five-day deadline for the filing of any application for leave to appeal the Confirmation Decision;

DECIDE

that the five-day period for the parties for the parties to present an application for leave to appeal in accordance with rule 155(1) of the Rules shall start to run with effect from the date of notification of this decision.

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

Dated this Monday, 8 March 2010

At The Hague, The Netherlands



Judge Cuno Tarfusser

Single Judge