

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/05-03/09

Date: 27 July 2010

**PRE-TRIAL CHAMBER I**

**Before: Judge Cuno Tarfusser, Single Judge**

**SITUATION IN DARFUR, SUDAN**

***IN THE CASE OF THE PROSECUTOR V. ABDALLAH BANDA ABAKAER and  
SALEH MOHAMMED JERBO JAMUS***

**Public Document**

**Decision Setting a Time Limit for the Parties' Replies to 87 Applications for  
Victims' Participation in the Proceedings and a Deadline for the Filing of  
Applications for Participation**

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, Prosecutor  
Mr Essa Faal, Senior Trial Lawyer

**Counsel for the Defence**

Mr Karim A.A. Khan

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

Mr Brahim Koné

Ms Hélène Cissé

Mr Akin Akinbote

Colonel Frank Adaka

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

a/0736/09, a/0737/09, a/0738/09, a/0739/09,  
a/0740/09, a/0741/09, a/0754/09

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Deputy Registrar**

Mr Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Fiona McKay

**Others**

**I, Judge Cuno Tarfusser**, Single Judge responsible for carrying out the functions of Pre-Trial Chamber I including all the issues related to victims' applications and subject to article 57 (2) (a) of the Statute, in relation to the situation in Darfur, Sudan and any case emanating therefrom;<sup>1</sup>

**NOTING** the "Report on applications for participation in the proceedings from victims accepted in the case of *the Prosecutor v. Bahar Idriss Abu Garda*",<sup>2</sup> filed by the Victims Participation and Reparation Section on 6 July 2010 together with eighty-seven applications in which applicants, previously authorised to participate in the case of *the Prosecutor v. Bahar Idriss Abu Garda*,<sup>3</sup> request to be authorised to participate in proceedings concerning the crimes as a result of which they allegedly suffered harm;

**NOTING** articles 57 (3) (c) and 68 (3) of the Statute of the Court, rules 86 and 89 (1) of the Rules of Procedure and Evidence and regulations 33 and 86 of the Regulations of the Court;

**NOTING** that Applicants a/0736/09, a/0737/09, a/0738/09, a/0739/09, a/0740/09, a/0741/09 and a/0754/09 are not represented by a legal representative;

**CONSIDERING**, however, that in the current phase of the proceedings, namely between the filing of the Applications and the decision on their merits, the lack of legal representation causes no prejudice to these Applicants;

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<sup>1</sup>ICC-02/05-233.

<sup>2</sup>ICC-02/05-03/09-50-Conf-Exp.

<sup>3</sup>*Prosecutor v. Bahar Idriss Abu Garda*, Pre-Trial Chamber I, "Decision on the 34 Applications for Participation at the Pre-Trial Stage of the Case", 25 September 2009, ICC-02/05-02/09-121; "Decision on the 52 Applications for Participation at the Pre-Trial Stage of the Case", 9 October 2009, ICC-02/05-02/09-147-Red; "Decision on Applications a/0655/09, a/0656/09, a/0736/09 to a/0747/09, and a/0750/09 to a/0755/09 for Participation in the Proceedings at the Pre-Trial Stage of the Case", 19 March 2010, ICC-02/05-02/09-255.

**CONSIDERING** that, pursuant to rule 89 (1) of the Rules, the Prosecutor and the Defence are entitled to reply to applications for participation in the proceedings within a time limit to be set by the Chamber;

**CONSIDERING** that, should the Prosecutor and the Defence wish to make use of their right to reply to the Applications, they may refer to or rely on the replies they previously submitted in the Abu Garda case;

**CONSIDERING** that, pursuant to articles 68 (1) and 57 (3) (c) of the Statute, the Court shall take appropriate measures to protect *inter alia* the safety, privacy, physical and psychological well-being of victims and that these measures shall not be prejudicial to or inconsistent with the rights of the suspects and a fair and impartial trial;

**CONSIDERING** that, in view of the nature and purposes of the present proceedings, redactions from the Applications are an appropriate measure of protection and are not prejudicial to or inconsistent with the rights of the suspects and a fair and impartial trial;

**CONSIDERING** that the concerns about the security of the Applicants are the same as in the Abu Garda case, and that, as a matter of principle, redactions to the Applications should thus be the same as in that case;<sup>4</sup>

**NOTING** however that, in the Abu Garda case, the Applications of two Applicants who were also witnesses for the Prosecutor, as such known to the Defence, were provided to the latter without redactions;

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<sup>4</sup> *Prosecutor v. Bahar Idriss Abu Garda*, Pre Trial Chamber I, "Decision Ordering the Parties to Submit their Observations on the Applications for Victims' Participation in the Proceedings", 27 August 2009, ICC-02/05-02/09-68, pp. 4-5; "Decision Ordering the Parties to Submit their Observations on the 52 Applications for Victims' Participation in the Proceedings", 16 September 2009, ICC-02/05-02/09-106, pp. 5-6; "Decision Setting a Time Limit for the Parties' Replies to 20 Applications for Victims' Participation in the Proceedings", 29 January 2010, ICC-02/05-02/09-240, p. 4.

**CONSIDERING** that, as the Prosecutor has not yet indicated whether the same Applicants will also be witnesses in the present case, the Applications of these two Applicants shall be provided to the Defence redacted in the same way as the other Applications;

**CONSIDERING** that, at this stage, it appears appropriate to establish a deadline for the submission of any other victims' applications to participate at the confirmation hearing, scheduled to start on Monday 22 November 2010;

**CONSIDERING** that any incomplete applications for participation, even if duly filed within the time-limited established in the present decision, will not be taken into consideration by the Single Judge;

**FOR THESE REASONS,**

### **ORDER**

the reclassification, as "Confidential Ex parte only available to the Registry and the Prosecutor", of annexes 2 to 88 to the "Report on applications for participation in the proceedings from victims accepted in the case of *the Prosecutor v. Bahar Idriss Abu Garda*"<sup>5</sup>;

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<sup>5</sup> ICC-02/05-03/09-50-Anx2-88.

**ORDER**

the Registry to provide, no later than on 30 July 2010, the Counsel for the Defence with copies of all eighty-seven Applications from which names, addresses and other sensitive information which could lead to identification of the Applicants are redacted;

**GRANT**

the Prosecutor and the Counsel for the Defence until Friday 13 August 2010 to reply to the Applications;

**ORDER**

all participants in the proceedings to only refer to the Applicants by the numbers assigned to them by the Registry;

**ORDER**

the VPRS to file any complete victims' applications for participation in the proceedings relating to the confirmation of charges in the case by no later than Wednesday 20 October 2010.

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



**Judge Cuno Tarfusser**

**Single Judge**

Dated Tuesday, 27 July 2010

At The Hague, The Netherlands