

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 13 May 2009

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR, SUDAN

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

Confidential

**Decision reclassifying the "Decision on the Prosecutor's Application under
Article 58"**

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, Prosecutor
Mr Essa Faal, Senior Trial Lawyer

Counsel for the Defence

Mr Karim A.A. Khan

Legal Representatives of Victims

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

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 Pre-Trial Chamber I in relation to the proceedings of the situation in Darfur, Sudan (the "Situation") and any related cases emanating therefrom¹ at the International Criminal Court (the "Court");

NOTING the "Prosecution's Application under Article 58" ("the Prosecutor's Application") filed by the Prosecutor in the record of the Situation on 20 November 2008, requesting that the Chamber issue warrants of arrest or, alternatively, summonses to appear for Bahr Idriss Abu Garda and other individuals on a confidential and *ex parte* basis;²

NOTING the "Decision on the Prosecutor's Application under Article 58" ("the Decision") issued by the Chamber on 7 May 2009 and currently classified as "under seal";³

NOTING articles 57(3)(c), 67 and 68(1) of the Statute of the Court and regulation 23bis (3) of the Regulations of the Court;

NOTING that the Decision filed in the record of the case *The Prosecutor v. Bahr Idriss Abu Garda* identifies the other individuals for whom the Prosecutor had requested a warrant of arrest or, alternatively, a summons to appear;

CONSIDERING that, based on the information available at this stage, the Single Judge is not in a position to determine whether disclosure of the identity of those persons to Bahr Idriss Abu Garda would result in jeopardizing the

¹ ICC-02/05-210.

² ICC-02/05-163-Conf-Exp.

³ ICC-02/05-02/09-1-US.

protection and privacy of victims and witnesses, the preservation of evidence or the protection of Bahr Idriss Abu Garda himself;

CONSIDERING that, accordingly, there is a need (i) that the Decision be reclassified as under seal, *ex parte* Prosecutor; and (ii) that all identifying information on the other individuals for whom the Prosecutor requested the issuance of summonses to appear be redacted from the version of the Decision to be given to the Defence and to be classified as “under seal”;

FOR THESE REASONS, HEREBY

ORDER

the Registrar to reclassify the “Decision on the Prosecutor’s Application under Article 58” dated 7 May 2009 (ICC-02/05-02/09-1-US) as “under seal, *ex parte* Prosecutor”;

ORDER

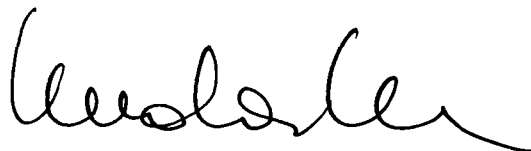
the Registrar, upon **Bahr Idriss Abu Garda’s** arrival at the seat of the Court, to provide him with the following documents:

1. the redacted version of the Decision, classified as “under seal” and attached hereto as Annex 1;
2. the “Prosecution’s Redacted and Confidential Version of the Prosecutor’s Application under Article 58” filed in the record of the case on 12 May 2009 (ICC-02/05-02/09-10-Conf-Anx1).

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

Dated this Wednesday, 13 May 2009

At The Hague, The Netherlands

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Judge Cuno Tarfusser
Single Judge