

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 August 2009

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

SITUATION IN DARFUR, THE SUDAN

***IN THE CASE OF THE PROSECUTOR v.
BAHAR IDRIS ABU GARDA***

Public Document

**Prosecutor's Report on Witnesses' Security Risk Assessment
with
Confidential, *Ex Parte*, Prosecution and VWU only Annex A**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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

Maria Luisa Martinod-Jacome

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. On 30 May 2009, the Single Judge issued a “Decision Scheduling a Hearing on Issues relating to Disclosure between the Parties”¹ wherein the Prosecutor was *inter alia* requested to provide information on the number of witnesses, if any, he intended to call to testify at the confirmation hearing and the number of witness statements he intends to use at the confirmation hearing pursuant to rule 76 of the rules².
2. On 9 June 2009, during the hearing convened pursuant to the above Decision, the Prosecution informed the Single Judge that it intended to call a total of 6 witnesses to testify at the confirmation hearing, and to use the statements of about 15 witnesses, including those of the 6 witnesses that it intends to call to testify³.
3. On 30 July 2009, the Single Judge issued a “Decision Ordering the Prosecutor to Submit a Report on Witnesses’ Security Risk Assessment”⁴, wherein the Prosecution has been ordered to submit a report on the security assessment it has carried out with respect to each and every witness on whom it intends to rely for the purpose of the confirmation hearing.
4. The Report of Prosecution in compliance with the 30 July 2009 Decision of the Single Judge is submitted herewith as *Ex Parte Confidential Annex “A”*.

II. Additional Submissions

5. During the hearing on 9 June 2009, the Prosecution informed the Single Judge, that the information provided on the numbers of witnesses and witnesses statements it will rely

¹ ICC-02/05-02/09-18

² ICC-02/05-02/09-18 at para 15(ii)

³ ICC-02/05-02/09-T-5 Pg 12 line 20 to 25 pg 13 lines 1-6

⁴ ICC-02/05-02/09-41

on during the confirmation hearing was not conclusive at that stage, and that the figures may change in light of ongoing investigations.

6. In the Confidential Report annexed to this Filing, the Prosecution has provided security risk assessments with respect to 16 witnesses. However, no final decision has been made on which witnesses' statements in particular the Prosecution intends to rely on at the confirmation hearing, as investigations in the present case are ongoing. There remains the possibility that the Prosecution will choose not to rely on the statements of some witnesses contained in the Report, or to rely on others not contained in the Report because their statements have not yet been obtained or finalised.
7. Should the Prosecution decide to rely on the statements of any witnesses not contained in the Report at the confirmation hearing, the Prosecution undertakes to promptly inform the Chamber of this fact, and to provide the Chamber with additional security risk assessments for each of those witnesses.



Luis Moreno-Ocampo
Prosecutor

Dated this 4th day of August 2009

At The Hague, The Netherlands