

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original English

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

Date: 27 August 2009

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 Ordering the Parties to Submit their Observations on the 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

Mr Essa Faal

Counsel for the Defence

Mr Karim A A Khan

Legal Representatives of the Victims

Legal Representatives of the Applicants

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**

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Ms Silvana Arbia & Mr Didier Daniel
Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

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 and on the Deadline for the Filing of Applications for Participation” (the “Decision”) issued on 19 August 2009, whereby Judge Sanji Monageng was designated Single Judge responsible for all issues related to victims’ applications to be authorized to participate as victims in the proceedings related to the case of *The Prosecutor v Bahar Idriss Abu Garda* (the “Abu Garda Case”),¹

NOTING that the Decision established Friday 11 September 2009 as the deadline for the filing of applications for participation in the proceedings in the Abu Garda Case;²

NOTING the “Report on applications to participate in the proceedings” filed by the Victims Participation and Reparation Section (the “VPRS”) on 26 August 2009,³ in which the Registry submits, as annexes, 34 requests for participation in the Pre-Trial phase of the Case (“the Applications”),⁴

NOTING articles 43(6) and 68(3) of the *Rome Statute* (“the Statute”), rules 16 to 19, 85 and 89 to 93 of the *Rules of Procedure and Evidence* (“the Rules”) and regulations 34, 80-81 and 86 of the *Regulations of the Court* (“the Regulations”),

NOTING that the date set for the commencement of the confirmation hearing is Monday, 12 October 2009;

¹ ICC-02/05-02/09-55, p 4

² ICC-02/05-02/09-55, p 6

³ ICC-02/05-02/09-64-Conf-Exp

⁴ ICC-02/05-02/09-64-Conf-Exp, Annex 1-34

CONSIDERING that under rule 89(1) of the Rules, the Prosecution and the Defence are entitled to make observations concerning the Applications within a time limit set by the Chamber, and that the Single Judge deems it necessary, in order to be in a position to make a decision as to whether the applicants should be granted the status of victims in the Abu Garda Case, to give the opportunity to the Prosecution and the Defence to submit their observations on the merits of the applications,

CONSIDERING that it is necessary to set such a time-limit, taking into account both the date of the commencement of the confirmation hearing and the right of the individuals granted the status of victim, if any, to effectively participate in the proceedings leading to the confirmation hearing,

CONSIDERING the need to ensure that the participation of those who have been granted authorisation to present their views and concerns as victims during the pre-trial phase, must be in a manner which is not prejudicial to or inconsistent with the rights of the defence and a fair and impartial trial,

CONSIDERING that, in accordance with the precedents of this Chamber, the identities of the Applicants can be disclosed to the Prosecution, since the Prosecution is an organ of the Court, which is also charged with protecting victims and witnesses,

CONSIDERING further that the Prosecution is the organ 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 authorisation is granted, there is no need to disclose to the Defence the identities of the applicants, since, once authorization is granted, the victims authorized to participate are entitled to decide whether to remain anonymous or disclose their identities to the Defence,

FOR THESE REASONS, THE SINGLE JUDGE HEREBY:

ORDERS the Registry, by Friday 28 August 2009 at 16h00, to provide

- (i) the Prosecution with non-redacted copies of the 34 Applications for Participation, and,
- (ii) the Defence of Bahar Idriss Abu Garda with copies of the 34 Applications for Participation, in which names, addresses and other sensitive information which could lead to the Applicants' identification are redacted,

GRANTS the parties as soon as practicable but no later than 12th September 2009, 16h00, to file their observations on the Applications for Participation.

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

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, followed by a large circular flourish on the right.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Thursday 27 August 2009

At The Hague, The Netherlands