

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/05-02/09**
Date: **3 September 2009**

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF THE PROSECUTOR

V.

BAHAR IDRIS ABU GARDA

Confidential

***Ex Parte* only available to the Prosecution and the Victims and Witnesses Unit**

**Prosecution's Application pursuant to Regulation 35 (2) of the Regulations of
the Court for extension of the time limit within which to submit an
application for redactions to the Statement of DAR-OTP-WWWW-0445**

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

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

Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. In its "Second decision on issues relating to Disclosure"¹ of 15 July 2009, the Pre-Trial Chamber I ordered that all applications for redactions must be filed on or before 28 August 2009.
2. The Office of the Prosecutor ("OTP" or "Prosecution") hereby respectfully submits an application for an extension of the time limit within which to submit applications for redactions.

II JUSTIFICATION FOR THE REQUEST

3. The Prosecution notes that pursuant to Regulation 35(2) of the Regulations of the Court, the Chamber "may extend or reduce a time limit if good cause is shown and where appropriate....After the lapse of a time limit, an extension of time may only be granted if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control."
4. On 26 August 2009, investigators from the OTP completed the interview of Witness DAR-OTP-WWWW-0445 in Nairobi, Kenya. The investigators traveled back to the Netherlands on the 28 August 2009, and the statement was submitted to the Information and Evidence Unit of the OTP for processing and registration on the same day.
5. As this statement was only submitted for processing and registration on the 28 August 2009 - the date on which the time limit for redactions expired - the OTP

¹ ICC-02/05-02/09-35 "Second Decision on issues relating to Disclosure", dated 15 July 2009.

was not in a position to evaluate the statement, assess its relevance, and identify information to be redacted before the expiry of the time limit.

6. In view of the above, the Prosecution believes that the circumstances were such that it could not have possibly complied with the time limit in respect of the statement of this particular witness.
7. For the above reason, the Prosecution submits that it has demonstrated good cause for an extension of the time limit to be granted. In addition, the extension of the time limit and consideration of the redaction request will not result in any prejudice to the Defence since, if the proposed redactions are granted, the redacted statement can be disclosed to the Defence well before the disclosure deadline.
8. The Prosecution has now determined the relevant parts of the statement for which redactions are being sought. In order to save time, the Prosecution attaches herewith the following:
 - (i) the Prosecution's Application for redactions - Confidential Annex "A";
 - (ii) a table showing the redactions being sought and their justifications - Confidential Annex "A1";
 - (iii) a copy of the Witness Statement of DAR-OTP-WWWW-0445, reflecting the redactions sought - Confidential Annex "A2" ;
9. The Prosecution understands that the Application for redactions will only be considered if the Single Judge has decided to grant the request for extension of time made herein.

III. RELIEF SOUGHT

10. The Prosecution hereby respectfully requests the Single Judge to grant an order extending the time limit within which to submit applications for redactions.

11. In the event that the Single Judge grants the order sought, the Prosecution further requests the Single Judge to consider the Application for redaction Annexed herewith to have been duly filed.



Luis Moreno-Ocampo

Prosecutor

Dated this 3rd day of September 2009
At The Hague, The Netherlands