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

Date: **2 October 2009**

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN DARFUR, THE SUDAN

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

Public Document

**Response to Defence Observations on 52 Applications for Victim Participation in
the Proceedings**

**Source: Victim Applicants, represented by Sir Geoffrey Nice QC and Rodney
Dixon**

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

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Legal Representatives of Victims

Sir Geoffrey Nice QC

Rodney Dixon

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

[2 names maximum]

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

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States Representatives

Amicus Curiae

REGISTRY

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Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Response to Defence Observations

1. The Victim Applicants a/0581/09 - a/0586/09 respectfully request that this short response to the Defence Observations on their applications dated 30 September 2009 be accepted on their behalf.
2. They ask the Single Judge to approach the Defence Observations with her own Decision on 34 Applications of 25 September 2009 in mind. In particular, the Victim Applicants ask the learned Single Judge to say that their applications fall squarely within the approach identified in paragraphs 3 and 4 of that Decision and that they would qualify as victims in accordance with the approach articulated at paragraphs 10-14 of the Decision.
3. The observations of the Defence fail to recognise this approach in their argument and specifically fail completely to heed the relevance to these applications of the cited passage of Pre-Trial Chambers II and III where they found that:

“(...) the alleged harm will be held as ‘resulting from’ the alleged incident when the spatial and temporal circumstances surrounding the appearance of the harm and the occurrence of the incident seem to overlap, or at least to be compatible and not clearly inconsistent.” (at para. 13 of the Decision)

The Defence overlooks, in particular, that the attack on the AMIS base, as alleged in the Prosecution’s Charging Document, directly resulted in the Victim Applicants having to flee from their homes in Haskanita in fear and terror, and that it directly led to their victimisation and the harm they suffered at that same time and in the same place.

4. The Victim Applicants respectfully ask the Single Judge also to have in mind their letter of 11 September 2009 that accompanied their applications and to say that their applications as victims living in Haskanita at the time of the attack on AMIS (and still living there) are fully compliant with the approach to the granting of victim status expressed by the Single Judge in the earlier Decision, the Defence having identified no cogent reason to have the right to participate refused.



For Sir Geoffrey Nice QC
Rodney Dixon
Counsel on behalf of the Victim Applicants

Dated this 2nd day of October 2009
London, United Kingdom