

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 7 October 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 on the "Response to Defence Observations on Applications for Victim
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
Mr Brahim Koné
Ms Hélène Cissé

Legal Representatives of the Applicants
Sir Geoffrey Nice QC
Mr Rodney Dixon

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, acting as Single Judge on behalf of Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”) with respect to victims’ issues in the case of *The Prosecutor v. Bahar Idriss Abu Garda* (the “Case”);¹

NOTING the “Second report on applications to participate in the proceedings” filed by the Registry on 11 September 2009,² in which it submits, as annexes, 52 applications for participation in the pre-trial phase of the Case³ and a Letter signed by the Legal Representative of Applicants a/0581/09 to a/0586/09;⁴

NOTING the “Decision Ordering the Parties to Submit their Observations on the 52 Applications for Victims’ Participation in the Proceedings” issued by the Single Judge on 16 September 2009;⁵

NOTING the “Defence’s Observations on 52 Applications for Victim Participation in the Proceedings”, filed by the Defence for Bahar Idriss Abu Garda on 30 September 2009;⁶

NOTING the “Prosecution’s Observations on 52 Applications for Victims’ Participation in the Proceedings” filed by the Prosecution on 30 September 2009;⁷

NOTING the “Response to Defence Observations on Applications for Victim Participation in the Proceedings” (the “Response to Defence Observations”)⁸ filed by

¹ ICC-02/05-02/09-55.

² ICC-02/05-02/09-97-Conf-Exp.

³ ICC-02/05-02/09-97-Conf-Exp, Anx3-Anx54.

⁴ ICC-02/05-02/09-97-Conf-Exp-Anx2.

⁵ ICC-02/05-02/09-106.

⁶ ICC-02/05-02/09-124.

⁷ ICC-02/05-02/09-125-Conf.

⁸ ICC-02/05-02/09-130.

the Legal Representatives of Applicants a/0581/09 to a/0586/09 (the “Applicants”) on 02 October 2009;

NOTING article 68(3) of the *Rome Statute* (“the Statute”), rule 89(1) of the *Rules of Procedure and Evidence* (“the Rules”) and regulation 24(2) of the *Regulations of the Court* (“the Regulations”);

CONSIDERING that, in accordance with regulation 24(2) of the Regulations, victims or their legal representatives may file a response to any document when they are permitted to participate in the proceedings, subject to any order of the Chamber;

CONSIDERING that, at this stage, the Single Judge has not yet ruled on the 52 applications to participate in the proceedings and that, therefore, the Applicants are not yet considered as victims with procedural rights and are not yet entitled to participate in the proceedings;

CONSIDERING that, as already established by this Chamber, applicants “are neither entitled to reply to the observations of the Prosecution and the Defence nor to request leave to appeal the decision of the Chamber on the merits of their applications”⁹ and that, therefore, the Applicants are not entitled, at this stage, to file any such response;

⁹ ICC-01/04-418, para. 16; ICC-01/04-437, p. 3.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY:

DISMISSES *in limine* the Response to Defence Observations.

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 large circular flourish on the right side.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Wednesday 7 October 2009

At The Hague, The Netherlands