

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 9 October 2009

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR

IN THE CASE THE PROSECUTOR V. BAHAR IDRIS ABU GARDA

Public

**Public Redacted Version of "Decision on the Prosecutor's application for
protective measures dated 22 September 2009"**

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, Senior Trial Lawyer

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**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I, Judge Cuno Tarfusser, Single Judge responsible for carrying out the functions of the Chamber in relation to the proceedings of the situation in Darfur, Sudan and any related cases emanating therefrom, including the case of *The Prosecutor v Bahar Idriss Abu Garda*, at the International Criminal Court;¹

NOTING the Prosecutor's "Application For Protective Measures Pursuant to Rule 87 of the Rules of Procedure and Evidence in respect of Witness DAR-OTP-WWWW-0446", dated 22 September 2009², as well as the confidential, ex parte Annex A thereto³, requesting that a number of protective measures be put in place with a view to ensuring the security of Witness DAR-OTP-WWWW-0446 ([REDACTED]: the "Witness"), namely by way of preventing disclosure of the Witness's identity to the public;

NOTING articles 57(3)(c), 67 and 68(1) of the Statute of the Court and rule 87 of the Rules of Procedure and Evidence;

CONSIDERING that the identity of the Witness is known to the Defence and that the requested measures, while ensuring the security of the Witness by way of anonymity *vis-à-vis* the public, do not prejudice the rights of the Defence, are the least intrusive measures that can be taken in the circumstances and, as such, are necessary and appropriate;

CONSIDERING that, in light of the above and of the paramount need to ensure the expeditiousness of the proceedings, there is no need to provide the Defence with the opportunity to respond to the Prosecutor's Application ;

¹ ICC-02/05-210.

² ICC-02/05-02/09-116-Conf.

³ ICC-02/05-02/09-116-Conf-Exp-AnxA.

FOR THESE REASONS

DECIDE

to grant the Prosecutor's Application;

ORDER

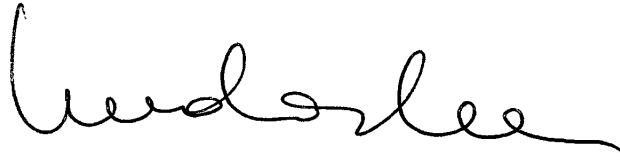
that the following protective measures be put in place in respect of Witness DAR-OTP-WWWW-0446:

- (i) That the name or any other information which could lead to the identification of the Witness be expunged from the public records of the Case;
- (ii) That Mr Abu Garda himself, his Defence, and all other participants in the confirmation hearing proceedings be prohibited from disclosing the identity and other identifying information relating to Witness DAR-OTP-WWWW-0446 to a third party;
- (iii) That broadcast of the testimony of Witness DAR-OTP-WWWW-0446 during the confirmation hearing be altered both in terms of image and voice such that members of the public watching or listening to the proceedings would not be able to identify the Witness;
- (iv) That the pseudonym "Witness DAR-OTP-WWWW-0446" be always used when referring to the Witness during the confirmation hearing;
- (v) That any part of the proceedings that may require the Witness's name or identity to be discussed be conducted in closed session;

ORDER

the Registrar to put in place any and all arrangements which might be necessary or appropriate with a view to ensuring effective implementation of the measures granted in this decision.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Friday, 9 October 2009

At The Hague, the Netherlands