

**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, SUDAN

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

Public

Public Redacted Version of "Decision on the Defence's application for protective measures dated 2 October 2009"

Document 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 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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

I, Judge Cuno Tarfusser, Single Judge responsible for carrying out the functions of Pre-Trial Chamber I 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 Court¹;

NOTING the Defence's "Application for Protective Measures pursuant to Rule 87 of the Rules of Procedure and Evidence", dated 2 October 2009², whereby the Defence requested protective measures to be granted in respect of its five witnesses, pursuant to rule 87;

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

CONSIDERING that four of the witnesses in respect of whom protective measures have been requested are [REDACTED] and that the public disclosure of their co-operation with the Defence would place them in considerable danger;

CONSIDERING that the fifth witness for whom protective measures have been requested, [REDACTED], and that the public disclosure of his identity [REDACTED] would likewise place him in considerable danger;

CONSIDERING that the identities of the witnesses are known to the Prosecutor and that the requested measures, while ensuring the security of the witnesses by way of anonymity *vis-à-vis* the public, do not create a significant prejudice to the Prosecutor;

¹ ICC-02/05-210.

² ICC-02/05-02/09-131-Conf.

CONSIDERING, thus, that the requested protective measures are necessary, appropriate and proportionate;

FOR THESE REASONS

DECIDE

to grant the Defence's Application;

ORDER

that the following protective measures be put in place in respect of [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]:

- (i) That their names, or any other information which could lead to their identification, be withheld from the public and the victims;
- (ii) That the Prosecutor, his staff and all other participants in the confirmation proceedings be prohibited from disclosing such information to a third party;
- (iii) That the following pseudonyms be attached to them:
 - DCW1 to [REDACTED],
 - DCW2 to [REDACTED],
 - DCW3 to [REDACTED],
 - DCW4 to [REDACTED], and
 - DCW5 to [REDACTED];

- (iv) That the Chamber will conduct in closed session any part of the proceedings that may require their names or identities to be discussed;

DECIDE

to authorise the redaction from the statements of [REDACTED]'s name and any information which could lead to his identification, as requested by the Defence;

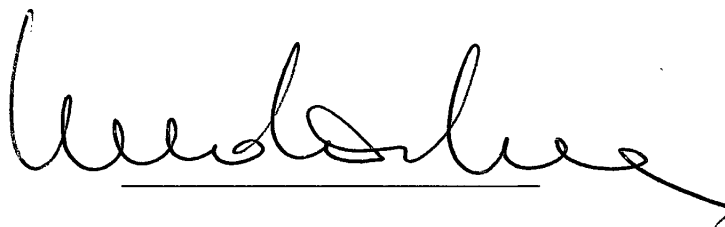
ORDER

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.

Dated this Friday, 9 October 2009

At The Hague, The Netherlands

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

Judge Cuno Tarfusser
Single Judge