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

Date: **12 October 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

Public Document

Prosecution's Notification of compliance with the E-Court Protocol and Application for an Order to CMS to remove 17 Duplicated documents from the Case Record

Source: Office of the Prosecutor

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

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I. Introduction

1. The Prosecution informs the Chamber that (i) additional metadata required by the E-court protocol is being submitted to Court Management Services (CMS) of the Registry for a limited set of documents today and (ii) the witness related information required by the E-Court Protocol will be submitted to CMS today. The Prosecution submits that with these final steps it has achieved full compliance with the E-Court protocol.
2. Due to an error in the metadata of documents contained in INCRIM package 2, the Prosecution corrected and re-submitted the set of documents, which resulted in the duplication of 17 documents¹ within the record of the case. To rectify this duplication, the Prosecution now seeks the Chamber's authorization for CMS to remove the 17 duplicated documents from the case record.

II. The Prosecution's Submission

3. On 4 September 2009, the Prosecution was informed by CMS that the Prosecution's disclosure package entitled "INCRIM package 2" had been uploaded into the E-Court system and that a metadata field "ICC-02/05-02/09 Redaction version" was wrongly labelled as "ICC-02/05-02/09 Redaction history". Upon verification of the error, the Prosecution also noticed that the Evidence Registration Numbers (ERNs) for 17 documents provided in redacted form bore underscores as opposed to dashes

¹ DAR-OTP-0164-0864_R01, DAR-OTP-0164-0866_R01, DAR-OTP-0164-0886_R01, DAR-OTP-0164-0901_R01, DAR-OTP-0164-0904_R01, DAR-OTP-0165-0352_R01, DAR-OTP-0165-0374_R01, DAR-OTP-0165-0381_R01, DAR-OTP-0165-0424_R01, DAR-OTP-0165-0489_R01, DAR-OTP-0165-0521_R01, DAR-OTP-0165-0544_R01, DAR-OTP-0165-0551_R01, DAR-OTP-0166-0021_R01, DAR-OTP-0166-0031_R01, DAR-OTP-0166-0353_R01, DAR-OTP-0169-0002_R01.

(as required by the E-Court Protocol).² The Prosecution therefore re-issued INCRIM package 2 with the corrected metadata, which was subsequently uploaded into the E-Court system.³

4. On 2 October 2009, CMS informed the Prosecution that the re-submission of the documents with corrected ERNs resulted in a duplication of 17 documents in E-Court. Therefore CMS asked the Prosecution to inform the Chamber that 17 documents have inadvertently been duplicated in the case record.
5. To rectify this duplication the Prosecution requests the Chamber to instruct CMS to remove the 17 duplicated documents from the case record.
6. Furthermore the Prosecution informs the Chamber that for certain documents, for which the “chain-of-custody” and the “People/Organization” metadata fields required by the E-Court protocol had not been provided, these have been provided to CMS today. For this limited set of documents redactions have been applied to the names of the OTP investigators contained in the “chain-of-custody” metadata field and where applicable to the “People/Organization” metadata field, in line with Single Judge Tarfusser’s “Decision on the ‘Prosecution’s request for authorization of

² See the E-Court protocol paragraphs 24 and 25, ICC-02/05-02/09-60-Anx. By means of illustration, the Prosecution numbered the redacted documents as follows: DAR-OTP-0164-0864_R01, whereas the correct reference would have been DAR-OTP-0164-0864-R01.

³ As required by paragraph 7 of the E-court protocol (ICC-02/05-02/09-60-Anx): “Once the data has been uploaded into the system, the participant will be requested to control the quality of the data uploaded. If errors are found in the data, the responsible participant shall reissue the entire record that has been amended including the table references. (...) Any updates shall be accompanied with a letter outlining the Document ID(s) and the information that has been changed.”

discrete redactions to the metadata fields foreseen by the E-Court protocol” of 31 August 2009 (hereinafter “Decision of 31 August 2009”)⁴.

7. Finally, the Prosecution informs the Chamber that it also submitted to CMS today the witness-related information required by the E-court protocol. The Prosecution submits that it has now discharged its obligations under the E-Court Protocol.

III. Relief Sought

8. For the reasons outlined above, the Prosecution respectfully requests the Chamber to instruct CMS to remove the 17 duplicated documents from the case record.



Luis Moreno-Ocampo
Prosecutor

Dated this 12th day of October 2009
At The Hague, The Netherlands

⁴ ICC-02-/05-02/09-76.