

ANNEX C

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **14 October 2009**

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Presiding Judge
Judge Sanji Mmasenono Monageng, Judge
Judge Cuno Tarfusser, Judge

SITUATION IN DARFUR, THE SUDAN

Public Redacted Version of

**Provision of Further Information in relation to the Prosecution's Application under
Article 58 of the Rome Statute filed on 6 April 2009**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence

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 & Deputy Registrar
Silvana Arbia & Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Procedural Background

1. On 20 November 2008, the Office of the Prosecutor ("the Prosecution" or "the Office") filed an Application under Article 58 of the Rome Statute, requesting that Pre-Trial Chamber I ("PTC") issue warrants of arrest or, alternatively, summonses to appear for the three individuals named therein ("the Application").¹
2. On 9 December 2008, the PTC issued its "Decision Requesting Additional Information and Supporting Materials" ("the 9 December Decision"),² requesting the Prosecution to submit additional information and supporting materials in relation to those aspects of the Application referred to in a confidential *ex parte* Annex thereto.
3. On 16 January 2009 and on 26 January 2009, the Prosecution submitted information on the issues identified in the 9 December Decision.³
4. On 3 February 2009, the Chamber convened a hearing to discuss issues contained in a confidential *ex parte* Agenda annexed to its decision to convene the hearing.
5. On 23 February 2009, the Prosecution filed its "Submission of information on the Prosecution's Application Pursuant to Article 58 and request for summonses to appear".⁴
6. On 25 February 2009, the Prosecution filed its "Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58".⁵

¹ ICC-02/05-163-Conf-Exp.

² ICC-02/05-166.

³ ICC-02/05-173.

⁴ ICC-02/05-194-Conf-Exp.

⁵ ICC-02/05-195-Conf-Exp.

7. On 2 March 2009, the PTC rendered its decision on the Prosecution's Request for Expedited Decision on the Prosecution's Application, denying the request of the Prosecution on the ground that the decision on the prosecution's request in relation to Al Bashir had to be completed by 4 March 2009 and that the issues to be decided are complex and require detailed analysis.⁶
8. On 6 March 2009, the Prosecution filed its "Prosecution's Provision of Further Information Pursuant to the Decision Requesting Additional Information and Supporting Materials, and Urgent Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58"⁷.
9. On 10 March 2009, the PTC rendered its decision on the Prosecution's Request for Expedited Decision on the Prosecution's Application, denying the request on the ground that the basis of its earlier decision of 2 March 2009 had not changed substantially.
10. On 27 March 2009, the Prosecution filed its "Prosecution's Provision of Further Information Pursuant to the Decision Requesting Additional Information and Supporting Materials, and Urgent Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58".⁸

Provision of Additional Information

11. Pursuant to the Prosecution's undertaking in its 25 February 2009 filing to keep the Chamber informed of developments with regards to its efforts to interview

⁶ ICC-02/05-199.

⁷ ICC-02/05-203.

⁸ ICC-02/05-211-Conf-Exp.

members of the URF delegation under Article 55, the Prosecution now submits the following information.

12. The Prosecution has been able to secure visas for a period of 15 days to a European country for the members of the URF delegation and, in principle, they have accepted to be interviewed in that country pursuant to Article 55 of the Statute. They are planning to move to that location in Europe during the coming week and the Prosecution is of the view that this presents yet another real prospect of ensuring the appearance of **ABU GARDIA** before the Court. Once the visa period expires, the members of the delegation will travel back to Africa.

13. [TEXT REDACTED]

14. [TEXT REDACTED].⁹

15. [TEXT REDACTED].

16. [TEXT REDACTED].

17. [TEXT REDACTED].¹⁰

18. [TEXT REDACTED].

19. [TEXT REDACTED].

⁹ *Prosecutor v Blaškić*, Decision on the Motion of the Defence Filed Pursuant to Rule 64 of the Rules of Procedure and Evidence, Case No. IT-94-14-T, 3 April 1996; *See also* Press Release CC/PIO/056-E available at <http://www.icty.org/sid/7382>.

¹⁰ *Ibid*; *see also* ICTY Bulletin No 5/6; available at <http://www.un.org/icty/BL/05art6e.htm>.

20. [TEXT REDACTED].

21. The Prosecution will submit a full report to the Chamber in regard to the issues mentioned in paragraphs 13 to 17 above in due course.

22. As requested in the 23 February 2009, 25 February 2009 and 27 March 2009 filings, the Prosecution also requests that should the PTC decide to grant the Prosecution's Application under Article 58(1) and decide to issue summonses to appear rather than warrants of arrest, only the name of **ABU GARDA** should be made public at the present time, as he is safely out of Darfur.



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Luis Moreno-Ocampo
Prosecutor

Dated this 14th day of October 2009

The Hague, The Netherlands