

ANNEX M

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/05-02/09**
Date: **14 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 Redacted Version of

Prosecution's Third Report on Status of the Procedures initiated under Articles 54(3)(e), 73 and 93 in relation to items identified as Potentially Exonerating and materials relevant for the Preparation of the Defence filed on 7 September 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

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. On 15 July 2009 the Pre-Trial Chamber I (“the PTC”) issued its Decision on Disclosure of 15 July 2009 (“the 15 July Decision”), in which it ordered the Prosecution to file by 10 August “its first Report on the status of the procedures initiated under Articles 54(3)(e), 73 and 93 in relation to those items identified as Potentially Exonerating pursuant to Article 67(2) or which are material to the preparation of the Defence pursuant to rule 77” and to file subsequent status reports every two weeks.
2. The Prosecution submits this third report to the Single Judge pursuant to the above-mentioned order.
3. The report is being submitted as Confidential *ex parte* Available only to the Prosecution as it contains information of a confidential nature. The Prosecution will file a public note giving notice of this filing.

Status of procedures initiated under Article 54(3)(e) in relation to potentially exculpatory material

4. In its report of 24 August 2009, the Prosecution indicated that after completion of its first and second review it identified ONE (1) document as containing potentially exculpatory material. The Prosecution has finalized arrangements with the information provider to make the document available publicly. It is expected that this process will be completed on 8 September and the Prosecution will be able to disclose the relevant document to the Defence on or before the end of the deadline-10 September 2009.

Material for the preparation of the Defence –Rule 77

5. In the same report, the Prosecution indicated that after its second review, it identified EIGHT (8) documents as potentially containing information that may be material for the preparation of the Defence, and that the Office of the Prosecutor has requested that

[TEXT REDACTED] . The Prosecution will keep the Chamber regularly informed of the status of these documents.

54(3)(e) materials in other OTP collections containing potentially exculpatory material under Art.67(2) or may be material for the preparation of the Defence –rule 77

6. With regards to materials collected in the other situations under Article 54(3)(e) conditions, the Prosecution in its last report informed that it was in the process of reviewing these materials with a view to determining whether they contain any potentially exculpatory evidence or information material to the preparation of a relevant Defence in this case. The review exercise been completed. The Office of the Prosecutor has not identified any document containing potentially exculpatory evidence or information material to the preparation of a relevant Defence in this case.

Next report

7. The Prosecution will provide regular updates of its arrangements [Text Redacted] with regards to materials mentioned in para. 4 above.



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Luis Moreno-Ocampo
Prosecutor

Dated this 14th day of October 2009

At The Hague, The Netherlands