

ANNEX N



Original: English

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

Date: 14 October 2009

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF THE PROSECUTOR

V.

BAHAR IDRIS ABU GARDA

Public Redacted Version of

**Prosecutions Submission of Revised Summaries to be relied upon in lieu of the
Transcripts of Witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-
OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-
OTP-WWWW-0314,**

And

**Request for Extension of Time to file Arabic Translation of Revised Summaries of
Transcripts of Interviews of Witnesses DAR-OTP-WWWW-0304, DAR-OTP-
WWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-
WWW-0312 and DAR-OTP-WWWW-0314 filed on 10 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

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REGISTRY

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Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. On 17 August 2009, the Prosecution filed the “Prosecution’s Notification to the Chamber of the Summaries to be relied upon in lieu of the Transcripts of Witnesses DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0307 and DAR-OTP-WWWW-0314, and Request for Authorisation for Non-disclosure in the Summaries of Identities of Witnesses and Members of their Families Contained in the Transcripts, Pursuant to Article 68(5) of the Rome Statute and 81(4) of the Rules of Procedure.”¹

2. On 26 August 2009, the Prosecution filed the “Prosecution’s Notification to the Chamber of the Summaries to be relied upon in lieu of the Transcripts of Witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0306 and DAR-OTP-WWWW-0312, and Request for Authorisation for Non-disclosure in the Summaries of Identities of Witnesses and Members of their Families Contained in the Transcripts, Pursuant to Article 68(5) of the Rome Statute and 81(4) of the Rules of Procedure.”²

3. On 27 August 2009, the Pre-Trial Chamber I issued its “Decision reclassifying the “Prosecution’s Application under Article 58” of 20 November 2008”³ (“Reclassification Decision”) wherein the Chamber decided that the confidentiality of the Prosecution’s Application is no longer required *vis-à-vis* the parties.

¹ ICC-02/05-02/09-54-Conf-Exp

² ICC-02/05-02/09-67-Conf-Exp

³ ICC-02/05-02/09-230-Conf-Exp

Request for Resubmission of Summaries of Transcripts of Witness Interviews

4. In light of the said Reclassification Decision, the previous measures taken by the Prosecution to conceal from **BAHAR IDRIS ABU GARDA** the fact that [TEXT REDACTED] and [TEXT REDACTED] were subject to an application by the Prosecution pursuant to Article 58, and therefore ongoing investigations, is no longer necessary.

5. The Prosecution believes that the Summaries of Transcripts of Interviews for witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP-WWWW-0314 ought to be revised to include information relating to the involvement of [TEXT REDACTED] and [TEXT REDACTED] in the allegations which form the subject matter of the charges against **BAHAR IDRIS ABU GARDA**.

6. The Prosecution further submits that the information included into the revised summaries of interviews of witnesses is information that would give the Defence adequate notice of the nature, cause and content of the charges, which would in turn give the Defence a fair opportunity to prepare its case.

7. The Prosecution will serve on the Defence the revised summaries of transcripts of interviews with witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP-WWWW-0314 today.

8. In relation to the Summary of the Transcripts of Interview of witness DAR-OTP-WWWW-0312, the Prosecution noticed that in the previous summary submitted on 26 August 2009, it had inadvertently not included portions of some of the transcripts of the interviews. Those facts omitted, have been included into the revised Summaries of the Transcripts of Interview of this witness filed herewith.
9. Accordingly, the Prosecution herewith provides :
 - (i) Revised Summaries of Transcripts of Interviews for witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP-WWWW-0314 which shows all the changes made; and
 - (ii) Clean copies of the revised Summaries of Transcripts of Interviews for witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP-WWWW-0314, which shall be the authoritative versions of the of the Summaries to be relied upon for the purpose of the confirmation hearing.

Request for Extension of time to file Arabic Translation of Witness Summaries

10. The Prosecution submits that it had to conduct a thorough review of the entire transcripts of the interviews of the said six (6) witnesses to extract those facts which were previously excluded, after the Reclassification Decision was issued on the 26 August 2009. Given the voluminous nature of these transcripts which extend into hundred of pages for each witness, the Prosecution was only able to

complete the revised summaries today, and would require additional time for the revised summaries to be translated into the Arabic language.

11. The Prosecution submits that an extension of a time limit prescribed in the Regulations can be granted on a showing of good cause, pursuant to Regulation 35(2). The Prosecution submits that good cause is made out in this case in light of the fact that Prosecution required time to review the entire transcripts of interviews and amend the summaries accordingly as stated in paragraph 11 above.

III. Request

12. In light of the matters states above, the Prosecution hereby respectfully requests the Single Judge for an extension of time of seven (7) days within which to submit the Arabic translations of the revised Summaries of Transcripts of Interviews for witnesses DAR-OTP-WWWW-0304, DAR-OTP-WWWW-0305, DAR-OTP-WWWW-0306, DAR-OTP-WWWW-0307, DAR-OTP-WWWW-0312 and DAR-OTP-WWWW-0314.



Luis Moreno-Ocampo,

Prosecutor

Dated this 14th day of October 2009

At The Hague, The Netherlands

No. ICC-02/05-02/09