



Original: **English**

No.: **ICC-02/05-02/09**
Date: **16 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
URGENT**

**Prosecution's request for authorisation to rely on a newly registered enhanced
copy of a document for the purpose of the confirmation hearing**

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

Mr Karim A.A. Khan

Legal Representatives of Victims

Mr Brahim Koné

Ms Hélène Cissé

Mr Akin Akinbote

Colonel Frank Adaka

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**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

I. Procedural History

1. On 15 July 2009, the PTC issued its “Second Decision on issues relating to Disclosure”¹ wherein the Chamber set out the disclosure regime to be applied in this case and established a deadline for the Prosecution to disclose its incriminating evidence by 10 September 2009.
2. On 1 September 2009, the Prosecution Disclosed to the Defence a document entitled “First Humanitarian Ceasefire Agreement signed in N’djamena on 8 April 2004” in both English and French with OTP Evidence Registration Number: DAR-OTP-0043-0045 (“the said document”).
3. On 10 September 2009, in compliance with the “Second Decision on issues relating to Disclosure”, the Prosecution filed in the record of the case the “Document Containing the Charges Submitted pursuant to Article 61(3) of the Statute”² in English and Arabic, and the List of Evidence in English as a confidential annex.
4. The said document forms part of the evidence that the Prosecution intends to rely on during the confirmation hearing and is included in its List of Evidence as well as on the chart indicating the confidentiality level of documents the Prosecution intends to rely on at the confirmation hearing.³
5. The said document is only partly illegible. However, the Prosecution has since been able to obtain a legible version of the same document which carries a new OTP Evidence Registration Number of DAR-OTP-0171-0579, and which the Prosecution will disclose to the Defence on 16 October 2009.

¹ ICC-02/05-02/09-35

² ICC-02/05-02/09-91-Conf, see also Confidential Annex 1.

³ ICC-02/05-02/09-152 + Conf-AnxA.

II. REQUEST

6. The Prosecution hereby requests (i) authorisation from the Chamber to rely on the recently disclosed and legible version of the said document with OTP Evidence Registration Number DAR-OTP-0171-0579 during the confirmation hearing, instead of the version with OTP Evidence Registration Number: DAR-OTP-0043-0045; (ii) the Chamber to instruct CMS to assign an EVD number to document DAR-OTP-0171-0579 once it is uploaded into E-Court.
7. The Prosecution submits that using the legible version of the said document would not prejudice the proceedings in anyway, and in fact would promote the fairness and expeditiousness of the hearing.
8. The Single Judge is requested to consider this filing as ‘urgent’ because it is imperative for this document to be disclosed before the commencement of the confirmation hearing.



Luis Moreno-Ocampo

Prosecutor

Dated this 16th day of October 2009
At The Hague, The Netherlands