

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-02/09
Date: 16 October 2009

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Presiding Judge

SITUATION IN DARFUR, SUDAN

IN THE CASE OF THE PROSECUTOR V. BAHAR IDRIS ABU GARDA

Public Document

URGENT

Decision Amending the Schedule for the Confirmation Hearing

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo

Mr Essa Faal

Counsel for the Defence

Mr Karim A.A. Khan

Mr Andrew J. Burrow

Legal Representatives of the Victims

Mr Brahim Koné

Ms Hélène Cissé

Mr Akin Akinbote

Mr Frank Adaka

Legal Representatives of the 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**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Ms Silvana Arbia

Mr Didier Preira

Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

I, Judge Sylvia Steiner, Presiding Judge of Pre-Trial Chamber I (“the Chamber”) at the International Criminal Court (“the Court”);

NOTING the “Decision on the Prosecutor’s requests for extension of time limit” of 11 September 2009, whereby the Single Judge decided, *inter alia*, to re-schedule the confirmation hearing to 19 October 2009;¹

NOTING the “Decision Distributing the Proposed Schedule for the Confirmation Hearing” of 2 October 2009 (“the 2 October 2009 Decision”);²

NOTING the “Decision on victims’ modalities of participation at the Pre-Trial Stage of the Case” issued by the Chamber on 6 October 2009 (the “Decision on victims’ modalities of participation”);³

NOTING the “Decision on the Schedule for the Confirmation Hearing” of 13 October 2009 (“the 13 October 2009 Decision”), whereby the Presiding Judge, *inter alia*, anticipated the date of appearance of Prosecution witnesses;⁴

NOTING the “Observations of the Registry on the schedule of the Confirmation Hearing” (“The Registry’s Observations”) of 14 October 2009;⁵

¹ ICC-02/05-02/09-98.

² ICC-02/05-02/09-129 + Anx1.

³ ICC-02/05-02/09-136.

⁴ ICC-02/05-02/09-162 + Anx1.

⁵ ICC-02/05-02/09-168-Conf.

NOTING the “Prosecutor’s request for an order directing the Defence to remove its proposed viva voce witness from its list of witnesses” of 14 October 2009 (the “Prosecutor’s Request”);⁶

NOTING the “Response to ‘Prosecution’s request for an order directing the Defence to remove its proposed viva voce witness from its list of witnesses’” of 16 October 2009;⁷

NOTING the “1. Request in respect of Lifting of Anonymity of Victims 2. Request for Access to Documents Relating to Witnesses” of 16 October 2009;⁸

NOTING the “Decision lifting anonymity of victims” of 16 October 2009;⁹

NOTING articles 61, 67, 68 and 69 of the Statute of the Court, rules 63, 87, 91(3), 121, 122 and 140 of the Rules of Procedure and Evidence (the “Rules”) and regulation 20 of the Regulations of the Court;

CONSIDERING that in the Registry’s Observations, the Registry stated that it “can not accommodate the scheduled appearance of witnesses as spelled out in the Decision of 13 October” and recommended that the dates for the appearance of witnesses provided for in the 2 October 2009 Decision be maintained in order to “ensure sufficient time for courtesy meeting, Courtroom familiarization, psycho-social assessment and statement reading”;

⁶ ICC-02/05-02/09-170-Conf.

⁷ ICC-02/05-02/09-178-Conf.

⁸ ICC-02/05-02/09-176.

⁹ ICC-02/05-02/09-180.

CONSIDERING that, in accordance with rule 91(3) of the Rules and as established in the Decision on victims' modalities of participation, when the identities of victims are disclosed to the parties, "if any of the victims' legal representatives wish to question any of the witnesses called to testify at the confirmation hearing, they must make an application to the Chamber" and "the Chamber will decide, at that time, on the procedure that must be followed";¹⁰

CONSIDERING that the Presiding Judge deems it appropriate to amend the schedule for the confirmation hearing as established in the 13 October 2009 Decision in order to enable the Registry to ensure the appearance of the Prosecution witness and to allocate some time for the questioning of witnesses by the Legal Representatives of victims, where authorized by the Chamber;

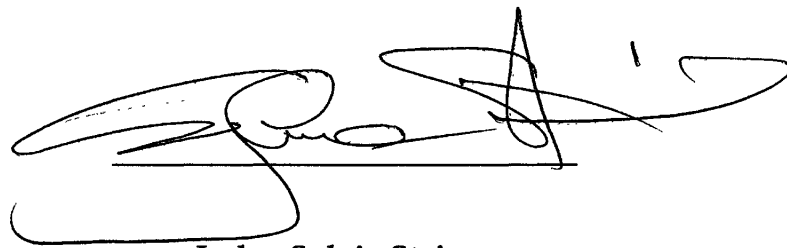
CONSIDERING finally that the present decision is taken without prejudice to the decisions to be taken in due time and related to pending requests before the Chamber;

¹⁰ ICC-02/05-02/09-136, paras. 22-24.

FOR THESE REASONS,

DECIDE to distribute to the parties and the participants the amended schedule for the confirmation hearing in Annex I to the present decision.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the printed name of the judge.

Judge Sylvia Steiner

Presiding Judge

Dated this Friday, 16 October 2009

At The Hague, The Netherlands