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

Date: 17 March 2010

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, THE SUDAN

**IN THE CASE OF
*THE PROSECUTOR v. BAHAR IDRIS ABU GARDA***

URGENT

Public Document

**Defence Application for extension of page limit for the Defence's Response to the
"Prosecution's Application for Leave to Appeal the 'Decision on the Confirmation
of Charges' "**

Source: Defence

Document 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 Brahima Koné

Ms Hélène Cissé

Mr Akin Akinbote

Mr Frank Adaka

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Procedural History

1. On 8 February 2010, Pre-Trial Chamber I issued the Confirmation Decision¹, declining to confirm the charges against Mr. Bahar Idriss Abu Garda², and deciding “that the five-day period for the parties to present an application for leave to appeal in accordance with rule 155(1) of the Rules shall start to run with effect from the date of notification of the Arabic translation of this Decision.”³
2. On 8 March 2010, the Single Judge issued the Decision⁴ on the Defence’s application⁵ for variation of time limit for filing of application for leave to appeal, deciding that the five-day time limit for the parties to submit applications for leave to appeal would start to run with effect from the date of notification of said Decision.⁶
3. On 10 March 2010, the Prosecution filed its Urgent Application for extension of page limit for the Prosecution’s Application for Leave to Appeal the Decision on the Confirmation of Charges, requesting the Chamber grant it “a 10-page extension of the page limit for the filing of the Application for Leave to Appeal the ‘Decision on the Confirmation of Charges.’ ”⁷
4. On 11 March 2010, the Single Judge issued the Decision on extension of page limit for Application for leave to appeal, granting the Prosecution a ten-page extension for its filing of the Prosecution’s Application for Leave to Appeal the Decision on the Confirmation of Charges.⁸
5. On 15 March 2010, the Prosecution filed its Application for Leave to Appeal the ‘Decision on the Confirmation of Charges’⁹ (“the Application”).

II. Application for extension of page limit

6. Regulation 37(2) of the Regulations of the Court provides that a participant may request the Chamber to extend the default page limit of 20 pages for the filing of

¹ ICC-02/05-02/09-243-Conf.

² Ibid., p. 97.

³ Ibid., p. 98.

⁴ ICC-02/05-02/09-249.

⁵ ICC-02/05-02/09-246.

⁶ ICC-02/05-02/09-249, p. 5.

⁷ ICC-02/05-02/09-250, para. 8.

⁸ ICC-02/05-02/09-251, p. 4.

⁹ ICC-02/05-02/09-252-Conf.

documents, including applications seeking leave to appeal confirmation of charges decisions, in “exceptional circumstances.” In accordance with Regulation 37(2), the Defence hereby respectfully requests the Chamber to grant an additional ten (10) pages for the Defence's Response to the "Prosecution's Application for Leave to Appeal the 'Decision on the Confirmation of Charges.' ”

7. It is the Defence's intention to constrain its arguments to the default 20 page limit set out under Regulation 37(1). However, given the detailed manner in which the Prosecution was able to present its arguments in its Application, in part by making use of the additional pages granted the Prosecution by the Chamber, the Defence wishes to preserve its own opportunity to present an equally detailed response, should the Defence deem it necessary.
8. The Defence submits that the above advanced reasons constitute “exceptional circumstances”.
9. The Defence respectfully requests that the Chamber urgently address this issue given that the Defence's deadline for the submission of its response is this Friday, 19 March 2010. The Defence further notes that it has contacted the Prosecution regarding the current filing, and that the Prosecution has stated it has no objection to the granting of ten (10) additional pages to the Defence for its Response to the "Prosecution's Application for Leave to Appeal the 'Decision on the Confirmation of Charges.' ”

Relief Sought

10. The Defence therefore respectfully requests that the Chamber grant a 10 (ten) page extension of page limit for the filing of the Defence's Response to the "Prosecution's Application for Leave to Appeal the 'Decision on the Confirmation of Charges.' ”

Respectfully Submitted,



Mr. Karim A. A. Khan

Defence Counsel for Bahar Idriss Abu Garda

Dated this 17th Day of March 2010

At The Hague, The Netherlands