

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 23 July 2009

**PRE-TRIAL CHAMBER I**

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

**SITUATION IN DARFUR, SUDAN  
IN THE CASE OF  
THE PROSECUTOR  
*v. BAHAR IDRIS ABU GARDA***

**Public Document**

**Submission in the record of the case by the Registrar of a revised version of the E-Court Protocol used by Pre-Trial Chamber I in the Lubanga and the Katanga and Ngudjolo cases**

**Source:** The Registrar

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

**REGISTRY**

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**Registrar**

Ms. Silvana Arbia

**The Registrar of the International Criminal Court (the “Court”);**

NOTING the “Decision scheduling a hearing on issues relating to disclosure between the parties” issued by the Single Judge on 30 May 2009<sup>1</sup>;

NOTING the hearing held on 9 June 2009 attended by the Prosecution, the Counsel for Defence and the Registrar<sup>2</sup>;

NOTING the “Second Decision on issues relating to Disclosure” issued by Pre-Trial Chamber I (the “Chamber”) on 15 July 2009<sup>3</sup>;

NOTING the “Decision on the Final System of Disclosure and the establishment of a timetable” issued by the Single Judge in the case the *Prosecutor v. Thomas Lubanga Dyilo* (Lubanga case) on 15 May 2009<sup>4</sup>;

NOTING the “Submission of a new version of the E-Court Protocol prepared jointly by the Office of the Prosecutor, the Defence and the Registry” filed on 20 July 2006 in the Lubanga case<sup>5</sup>;

NOTING the “Decision on the new version of the draft Protocol on the Presentation of Evidence prepared jointly by the Office of the Prosecutor, the Defence and the Registry” issued by the Single Judge in the Lubanga case on 27 July 2006<sup>6</sup>;

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<sup>1</sup> ICC-02/05-02/09-18

<sup>2</sup> ICC-02/05-02/09-T-3

<sup>3</sup> ICC-02/05-02/09-35

<sup>4</sup> ICC-01/04-01/06-102

<sup>5</sup> ICC-01/04-01/06-201

<sup>6</sup> ICC-01/04-01/06-213

**NOTING** the “Final Decision on the E-Court Protocol for the Provision of Evidence, Material and Witness information in electronic version for their presentation during the Confirmation hearing” issued by the Single Judge in the Lubanga case on 28 August 2006<sup>7</sup>;

**NOTING** the status conference held on 14 December 2007 in the case *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (the “Katanga and Ngudjolo case”) during which the Single Judge informed the parties that she intended “to follow the practices on disclosure that were followed for the purpose of the Confirmation Hearing in the [Lubanga case]”<sup>8</sup>;

**NOTING** the “Submission by the Registrar of a revised version of the E-Court Protocol of Trial Chamber I” and its annex 1 submitted by the Registry in the Katanga and Ngudjolo case on 27 march 2009<sup>9</sup>;

**NOTING** regulations 24*bis* and 26(3) of the Regulations of the Court;

**CONSIDERING** that in its Decision, Pre-Trial Chamber I decided that “the system governing disclosure for the purpose of the confirmation hearing in the present case shall be the one that governed disclosure in the previous cases before this Chamber with the changes expressly provided for in the present decision” and therefore ordered the parties “to submit any evidence with the appropriate metadata in accordance with the e-Court protocol as set out in the Katanga and Ngudjolo case” and the Registry “to provide the Defence with the e-court Protocol”;

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<sup>7</sup> ICC-01/04-01/06-360

<sup>8</sup> ICC-01/04-01/07-T-12, from page 4 line 14 to page 5 line 4

<sup>9</sup> ICC-01/04-01/07-1003 and ICC-01/04-01/07-1003-Anx1

**CONSIDERING** that since the preparation of the E-Court protocol used for the purposes of the Confirmation hearings in the Lubanga case and the Katanga and Ngudjolo case some technical improvements have taken place;

**CONSIDERING** that the most recent E-Court protocol submitted by the Registry in the Trial phase of the Katanga and Ngudjolo case includes the above mentioned technical improvements;

**CONSIDERING** that the said E-Court Protocol was discussed extensively with the Knowledge Base Unit of the Office of the Prosecutor and the Defence teams;

**CONSIDERING** that the Registrar suggests that those technical changes be implemented in the current case in order to simplify the work of the users and especially to facilitate their searches and analysis through the E-Court system;

**CONSIDERING**, furthermore, that the implementation of those changes is to result in a generic Protocol which would be consistent across cases and phases;

**CONSIDERING**, in particular, that the implementation of a unique technical setting applicable to all cases will avoid any legacy issues between the various phases of a case;

**CONSIDERING** that this generic Protocol will not prevent the Registry from accommodating the Chambers' substantial requirements (i.e. the creation or removal of metadata fields (subjective) );

**RESPECTFULLY SUBMITS**, as annex 1 to the present filing a revised version of the E-Court Protocol used by the Pre-Trial Chamber in the Lubanga case and the Katanga and Ngudjolo case, wherein the technical improvements have been inserted, while all the metadata fields remain as initially ordered by Pre-Trial Chamber 1.

P/o 

Marc Dubuisson, Director of the Division of Court Services  
on behalf of  
Silvana Arbia

Dated this 23 July 2009

At The Hague, The Netherlands.