



Coalition for the International Criminal Court
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MEDIA ADVISORY

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ABU GARDA CASE NOT READY FOR TRIAL

Pre-Trial Judges Say They Lack Evidence To Try Darfur Rebel Leader At This Stage

WHAT: On 8 February 2010, Pre-Trial Chamber I of the International Criminal Court (ICC) unanimously declined to confirm charges of war crimes against Darfur rebel leader Bahr Idriss Abu Garda, hence refusing to move his case forward to trial at this stage. The Prosecutor had argued that Abu Garda commanded an attack on the African Union Mission in Sudan (AMIS) at the Haskanita base in North Darfur, Sudan in September 2007, killing twelve and severely wounding eight AMIS personnel. Although Judges insisted that the case was of sufficient gravity, the Chamber established that it lacked evidence that Abu Garda participated in the common plan to attack the Haskanita base. The Prosecution is likely to seek to appeal the decision.

HOW: Abu Garda was charged with crimes of violence to life, intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission, and pillaging. The decision issued today results from a public hearing held by Pre-Trial Chamber I from 19 to 30 October 2009, during which the ICC Prosecutor was required to support these war crimes charges with evidence. Abu Garda objected to the charges and challenged the evidence through his counsel. Three Prosecution witnesses and one Defence witness presented their testimonies. 78 victims participated in the hearing through four legal representatives.

WHO: Bahr Idriss Abu Garda is the chairman and general coordinator of military operations of the United Resistance Front (URF). From 2005 to 2007, Abu Garda was the Vice-President of the Justice and Equality Movement (JEM), a Sudanese armed group. On 17 May 2009, Abu Garda was summoned to appear before the International Criminal Court in The Hague, which he did voluntarily on 18 May 2009.

NEXT STEPS: The Prosecutor of the ICC has the right to request leave to appeal the decision. At a later stage, the Prosecution could again request the Chamber to confirm the charges against Abu Garda if supported by additional evidence.

COMMENT: “The decision declining to confirm charges against Sudanese rebel leader Bahar Idriss Abu Garda shows that the ICC judges abide by strictest standards

of fair trial including high respect for the presumption of innocent and serious examination of the evidence before them,” explained William R. Pace, Convenor of the Coalition for the ICC – a civil society network in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity.

BACKGROUND: The investigation into the situation in Darfur, Sudan was officially opened by the ICC prosecutor on 6 June 2005 after being referred to the Court by the United Nations Security Council through Resolution 1593 on 31 March 2005. Since the referral, and in addition to the Abu Garda case, three public arrest warrants have been issued in the Darfur investigation against Ahmad Muhammad Harun, Ali Kushayb and Omar Hassan Ahmad al-Bashir. None of the three outstanding arrest warrants have been executed as the Sudanese government has openly defied and consistently refused to cooperate with the Court and the international community.

The ICC is the first permanent international court capable of trying individuals accused of war crimes, crimes against humanity and genocide. To date, it has publicly issued twelve arrest warrants and one summons to appear for investigations in four situations: the Central African Republic; Darfur, Sudan; Uganda; and the Democratic Republic of Congo. Four suspects are currently in custody. The ICC Office of the Prosecutor has allegedly analyzed or is analyzing at least nine other situations on four continents.

FOR ADDITIONAL INFORMATION: Please visit the Coalition’s website at <http://www.coalitionfortheicc.org/?mod=darfur> and participate in our blog “*In Situ: See justice through the eyes of civil society*” at www.coalitionfortheicc.org/blog

Experts from international and Sudanese human rights organizations are listed on the following pages for comment and background on this decision.

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***Important notice:** The Coalition for the International Criminal Court (CICC) is a civil society network in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. The Coalition as a whole, and its secretariat, does not endorse or promote specific investigations or prosecutions or take a position on situations before the ICC. However, individual CICC members may endorse referrals, provide legal and other support on investigations, or develop partnerships with local and other organizations in the course of their efforts.*

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