

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09

Date: 14 April 2011

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Silvia Fernandez de Gurmendi

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.* ABDALLAH BANDA ABAKAER NOURAIN
AND SALEH MOHAMMED JERBO JAMUS**

PUBLIC

**Report of the Registrar in response to the questions in the agenda of the status
conference scheduled for 19 April 2011**

Source: Registry

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

The Office of the Prosecutor

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Ms Fatou Bensouda

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Mr Andrew J. Burrow

Legal Representatives of the Victims

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Ms Hélène Cissé

Mr Akin Akinbote

Mr Frank Adaka

Sir Geoffrey Nice & Mr Rodney Dixon

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

Counsel Support Section

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Ms Charlotte Dahuron

Ms Alexandra Tomic

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

NOTING the “*Order scheduling a status conference*” issued by Trial Chamber IV (the “Chamber”) on 30 March 2011;¹

NOTING the “*Agenda of the status conference scheduled for 19 April 2011*” issued by the Chamber on 12 April 2011;²

NOTING article 64(3)(b) of the Rome Statute, rules 89(1), 132(1) of the Rules of Procedure and Evidence; regulations 30, 39, 40, 54 and 86 of the Regulations of the Court;

CONSIDERING that on 4 April 2011, the Chamber notified a preliminary agenda of the status conference scheduled for 19 April 2011 to the parties, participants and the Registry and instructed the parties, participants and the Registry to file written submissions in response to the questions which appear in the agenda by 16h00 on 14 April 2011;³

REPORTS to the Chamber as follows:

A. Outstanding issues relating to victim participation

Applications received

1. The Registry has received eleven applications which appear to be linked to the present case, but which have not yet been filed in the case. These applications have not been filed with the Chamber because most of them appear to the Registry to be incomplete. The Registry has requested supplementary information necessary to complete the applications.

¹ ICC-02/05-03/09-127.

² ICC-02/05-03/09-128.

³ Email communicated by the Legal Advisor to the Trial Division on 4 April 2011 to the parties, participants and the Registry.

2. Based on information available to the Registry at this point, it is likely that of these applications, any forthcoming supplementary information will be received by the end of June 2011. Assuming this, and taking into consideration the resources of the Victims Participation and Reparations Section as well as its obligations in other proceedings, the Registry estimates that these applications could be prepared for filing to the Chamber and transmission to the parties by the end of the Summer judicial recess this year. The Registry would respectfully request the Chamber's guidance regarding whether or not applications remaining incomplete at the time of any deadline that might be established by the Chamber for filing applications for participation in the trial proceedings should also be filed with the Chamber.

Additional applications expected to be received

3. The Registry notes that there remain a number of potential victim applicants who have not yet been informed of the opportunity to participate in the proceedings. Based on an assumption that any person present and/or working on the African Union base at Haskanita at the time of the attack may have suffered harm due to the attack (for example the loss of property, or psychological harm), and taking into account the information currently available to it, the Registry estimates that there may be up to a further approximately 150 potential applicants in the present case.
4. The Registry is taking steps to identify as many as possible of these further potential applicants before the trial, to arrange for them to be informed about the proceedings and their possible rights, and if so requested to assist them in completing application forms. However given the geographical dispersal of the potential applicants, the logistical challenges likely to be faced in meeting them, and relevant resource constraints, the Registry estimates that it will take several months to ensure that remaining potential applicants are contacted. A further period of at least one month would be required to process and redact the applications received.

Other applications

5. Finally, the Registry has in its possession a number of applications said to be linked to the Haskanita attack but which have never been filed in this case because they were rejected by Pre-Trial Chamber I in *The Prosecutor v Bahar Idriss Abu Garda* for reasons which either are unable to be remedied, or have in fact not been remedied, by the provision of further information. The Registry does not propose to file these applications in the present case unless the Registry receives further information which appears to materially alter an applicant's position in respect of rule 85, unless the Chamber decides otherwise.

B. Languages to be used in the proceedings

The Registry's readiness to provide simultaneous interpretation from and into Zaghawa

Zaghawa

6. The Registry has tested and interviewed the available candidates for paraprofessional interpreters for Zaghawa. There are no interpreters anywhere in the world who can interpret from and into Zaghawa simultaneously. The current number of trainees for the paraprofessional training programme (as it was done for Acholi, Swahili, Lingala and Sango) is not sufficient – there are only three candidates. All efforts are being made to recruit additional candidates so that more than 4 candidates can start the training.
7. From the experience it is known that a higher number of trainees would ensure the establishment of a booth. The Registry will in any case need one language assistant for the familiarization which means that a minimum of 5 Zaghawa candidates are required. As the training will take a minimum of 6 months, and as it is expected that the training would start in mid May 2011, the Registry would be ready for the commencement of the trial in mid November 2011. It is relevant to bear in mind that Zaghawa is not a written language, and that it lacks legal and judicial terminology and therefore all Court-related terminology is in Arabic.

Arabic

8. In addition, should the Chamber request the Registry to provide Arabic interpretation during the trial, the Registry wishes to inform the Chamber that any confirmation of a booking of the Arabic booth must be done with at least two months notice in advance. Due to the fact that Arabic will be a relay language for English and French from and into Zaghawa, it is important to have the best quality interpretation which can only be achieved with enough notice.

Other languages

9. The Registry would also like to draw the Chamber's attention to the languages other than Zaghawa in which the witnesses may testify. The Registry has been struggling since 2005 to find field interpreters in Fur or Masalit (Darfurian languages). There are very limited resources for Fur and none for Masalit at this moment. If these languages will be required at trial, additional field recruitment missions will have to be scheduled to North America since European and African (Chad) missions have not resulted in significant additions to our field interpretation rosters.
10. In the event that these or other languages are required at trial for which there are only a couple of identified competent interpreters, the interpretation will have to be carried out in consecutive mode but most probably from a booth to protect the identity of the interpreter particularly in the event of a Darfurian language being required. Therefore, the Registry emphasises that information on such requirement should be communicated to the Registry as early as possible.

Date of the trial

Outstanding practical issues which need to be resolved prior to the commencement of the trial

11. In addition to the time frame detailed above for the training for the Zaghawa interpreters, the Registry would like to submit the following observations on the outstanding practical issues which need to be resolved prior to the commencement of the trial.

Logistical issues to bring in witnesses

12. Since the Victims and Witnesses Unit (the "VWU") has not been provided with a finalised list of witnesses to be called by the Office of the Prosecutor or the Defence, the Unit is not in a position to articulate any outstanding logistical challenges which need to be resolved prior to the commencement of the trial.
13. However, the VWU emphasises the need for the parties to provide the Unit as soon as possible with relevant information regarding the following:
- the finalised list of witnesses to be called during the trial and their order to be called;
 - whether the witnesses have passports bearing in mind that the process of applying for passports may be lengthy and complicated in some countries;
 - the legal status of the witnesses in their countries of residence;
 - the need for video-link testimony;
 - whether the witnesses need any type of support to facilitate their appearance before the Court, such as an official letter from the Court to be communicated to their employers or need to be accompanied by accompanying support persons in accordance with regulation 91 of the Regulations of the Registry;
 - any other information relevant to their appearance before the Court.

Protocol on the practices used to prepare and familiarise witnesses

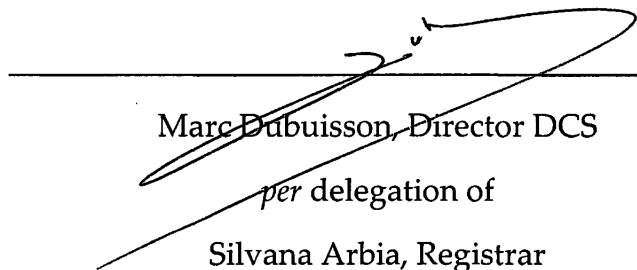
14. In addition, the VWU would also like to respectfully seek a decision on the practices to be used to prepare and familiarise witnesses for giving testimony prior to the commencement of the trial.
15. In order to have an uniform way to familiarise all the witnesses appearing before the Court, the VWU would respectfully suggest that the Chamber envisage the possibility to adopt the *"Victims and Witnesses Unit's Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial"* which has been filed before Trial Chamber III⁴.

⁴ ICC-01/05-01/08-1081-Anx.

16. This Unified Protocol is based on the practice developed before Trial Chamber I and Trial Chamber II and thus can be regarded as a consolidated document reflecting the relevant jurisprudence of the Court as well as the various substantial achievements reached over the years of experience.⁵ If so requested by the Chamber, the VWU will file the said Unified Protocol in the present case file together with some observations on the way it could be implemented by the Unit.

Courtroom and resource arrangement for the trial

17. The Registry would also like to draw the Chamber's attention to the two simultaneous trials already scheduled from September until December 2011⁶ as well as the scheduling of 3 simultaneous hearings from 1st September to 12 October 2011⁷. In light of the limited resources, the Registry would like to emphasise that should the trial be scheduled to commence in the course of the 2nd semester of 2011, prior consultation would be of great importance to ensure availability of support for multiple trials to be organised during the same period.



Marc Dubuisson, Director DCS
per delegation of
Silvana Arbia, Registrar

Dated this 14 April 2011

At The Hague, The Netherlands

⁵ ICC-01/05-01/08-972, p.3

⁶ Trials in the cases of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* and *The Prosecutor v. Jean-Pierre Bemba Gombo*.

⁷ In addition to the trials indicated in the footnote 5, the third hearings are scheduled for the Confirmation of Charges hearings in the cases of *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* and *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mhammed Hussein Ali*.