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

Date: 30 May 2011

TRIAL CHAMBER IV

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

SITUATION IN THE DARFUR, SUDAN

IN THE CASE OF *THE PROSECUTOR*

v.

ABDALLAH BANDA ABAKAER NOURAIN

&

SALEH MOHAMMED JERBO JAMUS

Public Document

**Prosecution Update on the Status of Discussions on the Issue of Joint Instruction
of Expert Witness**

Sources: Office of the Prosecutor

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

Ms. Fatou Bensouda

Mr. Ade Omofade

Counsel for the Defence

Mr. Karim A. A. Khan QC

Mr. Ibrahim Yillah

Legal Representatives of the Victims

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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Background

1. At the Status Conference on 19 April 2011, Trial Chamber IV (“Trial Chamber”) ordered the Prosecution and the Defence “provide it in a joint filing, if possible, with an update on the status of the discussions on the issue of experts by 30 May”.¹
2. The Defence of Messrs. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus (“Defence”) has indicated to the Prosecution that it intends to make a separate filing to the Trial Chamber in this regard.

II. Submissions

3. The Prosecution has confirmed to the Defence that it remains amenable to the possibility of instructing an expert jointly, but is unable to do so until a number of formalities have been completed. The Prosecution informs the Trial Chamber that it has been unable to enter into such discussions with the Defence as yet for the following reasons:
4. As of the date of the last Status Conference, although the Prosecution had a number of persons that it was considering to instruct as expert witness, it had not yet identified any suitable individual in this regard. Following the Status Conference,² the Prosecution further assessed the names at its disposal and has now identified a particular individual.

¹ ICC-02/05-03/09-T-10-ENG ET pgs. 32 -34.

² Accordingly, at the Status Conference, the Prosecution informed the Trial Chamber as follows: “I believe the other information that the Defence sought to know is the nature of the expertise; I may well be wrong. The Defence will know as soon as we have clarity ourselves” [...] “If there haven’t been any developments, then we are well able to inform your Honours that the process is still ongoing. I believe what your Honours had in mind was to be able to monitor how this is progressing, rather than to place deadlines at this stage. PRESIDING JUDGE ALUOCH: Indeed. We want an update of the discussions.”: ICC-02/05-03/09-T-10-ENG ET, pg. 32 - 34.

However, the Prosecution is required to obtain the consent of this person's superiors and national government prior to contacting them.

5. The Prosecution thereafter needs to confirm whether or not this individual is actually able and willing to act as an expert witness. It is anticipated that these formalities would have been resolved by 15 June 2011. Depending on the outcome, the Prosecution remains open to sharing any relevant information regarding this person with the Defence with a view to discussing the possibility of jointly instructing the expert.



Luis Moreno-Ocampo

Prosecutor

Dated this 30th day of May 2011

At The Hague, The Netherlands