



Original: English

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

Date: 3 April 2012

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Silvia Fernandez de Gurmendi
Judge Chile Eboe-Osuji

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF THE PROSECUTOR

V.

***ABDALLAH BANDA ABAKAER NOURAIN AND SALEH MOHAMMED JERBO
JAMUS***

Public Document

**Prosecution's Response to the "Defence Request for an Order Prohibiting the
Recruitment of the Registry Zaghawa Language Assistants by the Prosecution" filed
on 27 March 2012**

Source: 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

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Participation/Reparation**

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**Victims Participation and Reparations
Section**

**Court Interpretation and Translation
Section**

Ms. Alexandra Tomic

1. On 27 March 2012, the Defence requested an order prohibiting the Prosecution from recruiting Zaghawa language assistants who, in the course of working with the Registry, acted as interpreters during discussions between the Defence and the Accused persons in this case (“Defence Request”)¹. On 28 March 2012, the Trial Chamber instructed the Prosecution, via e-mail, to file a response to the Defence Request by 3 April 2012.²

2. The requested order is unnecessary. Out of an abundance of caution, the Prosecution has already decided not to recruit the language assistants identified in the Defence Request. Had the Defence raised this issue first with the Prosecution directly, its filing to the Chamber would have been unnecessary.

3. The Prosecution does not concede, however, that there necessarily exists a conflict of interest barring the language assistants in question from now becoming Prosecution employees. Interpreters and translators perform the technically demanding but nonetheless mechanical function of moving text or speech from one language to another. At no time is their work informed in any way by the substance of prior work that they may have done. In other words, if the language assistants at issue were to come to work for the Prosecution, none of their work would be substantively influenced by prior work they may have done, and nothing would require them to divulge anything that they heard during prior engagements. In this respect, an interpreter or translator is not

¹ ICC-02/05-03/09-312 and ICC-02/05-03/09-312-Anx.

² E-mail Communication from Legal Officer of Trial Chamber IV to the parties and participants received on 28 March 2012 at 10:02 hrs.

comparable to a lawyer, who, in carrying out his responsibility to provide advice and guidance, must consider whether representation of the present client will implicate the use or disclosure of confidential information acquired during prior employment. There is nothing about the work of the interpreter or translator that could create a similar conflict.

4. There is no reason for the Chamber to engage this issue at this time, however. Because the Prosecution has decided not to proceed with the recruitment of the language assistants in question, the issue no longer arises. Accordingly, the Chamber can decide that the order requested by the Defence is now moot.



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Luis Moreno-Ocampo

Prosecutor

Dated this 3rd day of April 2012

At The Hague, The Netherlands