



Original: **English**

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

Date: 22 June 2012

TRIAL CHAMBER IV

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

SITUATION IN THE DARFUR, SUDAN

IN THE CASE OF *THE PROSECUTOR*

v.

ABDALLAH BANDA ABAKAER NOURAIN

&

SALEH MOHAMMED JERBO JAMUS

Confidential
with Confidential Annexures A to D

Defence Submission of Documents Requested by the Trial Chamber

Sources: Defence Team of Abdallah Banda Abakaer Nourain
Defence Team of Saleh Mohammed Jerbo Jamus

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

The Office of the Prosecutor

Ms. Fatou Bensouda
Mr. Adebowale Omofade

Counsel for the Defence

Mr. Karim A. A. Khan QC
Mr. Nicholas Koumjian

Legal Representatives of the Victims

Unrepresented Victims

Legal Representatives of the Applicants

**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

1. Following the confidential status conference held on 19 June 2012, the Trial Chamber requested that the Defence for Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus ("Defence") formally file "the 2009 National Security Act currently in force in the Republic of Sudan and any legal texts or NGO reports in original language referred to by the Defence concerning the prosecution in the Republic of Sudan of any individuals cooperating with the ICC."¹
2. Pursuant to the Trial Chamber's request, the Defence respectfully submit the following documents:
 - a. the National Security Act which the Defence believe is currently in force in the Republic of Sudan (see articles 55 and 57);²
 - b. an Amnesty International report entitled "Sudan: Agents of Fear: The National Security Service in Sudan" and dated July 2010 (see pages 24, 25, 30, and 35);³
 - c. a report by the International Federation for Human Rights entitled "Observatory for the Protection of Human Rights Defenders Annual Report 2009 – Sudan" and dated 18 June 2008 (see pages 2 and 3);⁴
 - d. a report by the Congressional Research Service of the United States entitled "International Criminal Court Cases in Africa: Status and Policy Issues" dated 22 July 2011 (see page 16 and related footnotes).⁵

¹ See Email from the Trial Chamber's legal officer entitled "Legal texts to be provided to the Chamber", dated 20 June 2012. In accordance with the Chamber's instruction, this filing and its Annexures are filed as confidential.

² See Annexure A. Annexure A includes two English versions, and one Arabic version of the Sudanese National Security Act.

³ See Annexure B. Report also available at <http://www.amnesty.org/en/library/asset/AFR54/010/2010/en/7b11e50c-3a0b-4699-8b6f-08a27f751c6c/afr540102010en.pdf>.

⁴ See Annexure C. Report also available at: <http://www.unhcr.org/refworld/docid/4a5f3010c.html>. See also p. 13 to 14, 32, and 37 of the U.S. State Department Country Report, "2010 Human Rights Report: Sudan" available at <http://www.state.gov/documents/organization/160477.pdf>.

3. In relation to the National Security Act, included in "Annex A" are two unofficial English versions, and one unofficial Arabic version of the Act.⁶ The title of the first English version reads "The National Security Act 2009", while the second English version is entitled "The National Security Act 2010". The title of the Act in the unofficial Arabic version is "The National Security Act 2010". The Defence submit that the discrepancy in year is likely attributed to the fact that the National Security Act was passed in December 2009, but did not enter into force until February 2010.⁷

Respectfully Submitted,



Mr. Karim A. A. Khan QC

Lead Counsel

for Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus



Mr. Nicholas Koumjian

Co-Lead Counsel

Dated this 22nd Day of June 2012

At The Hague, The Netherlands

Dated this 22nd Day of June 2012

At The Hague, The Netherlands

⁵See Annexure D. Report also available at <http://www.fas.org/sgp/crs/row/RL34665.pdf>. The Report was also cited in the Defence Request for a Temporary Stay of Proceedings (see ICC-02/05-03/09-274, footnotes 6 and 8).

⁶ The first English version entitled "The National Security Act 2009" is provided by the Max Planck Institute for Comparative Public Law and International Law and can be found at: http://www.mpil.de/shared/data/pdf/national_security_act_2009.pdf. The second English version is provided by the Project for Criminal Law Reform in Sudan (PCLRS) and can be found at: <http://www.pclrs.org/downloads/bills/Institutional%20Law/National%20Security%20Act%202010%20UNMIS%20unofficial%20English%20%20Transaltion%20final%20version%202010-02-03%20single%20space.pdf>. The Arabic version also provided by PCLRS is available at: http://www.pclrs.org/National_Security_Law2010.pdf.

⁷ See p. 19, para. 6 of the Amnesty International Report attached as Annexure B.