

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 7 August 2012

TRIAL CHAMBER IV

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

SITUATION IN DARFUR, SUDAN

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

**Public Document
With Confidential and *Ex parte* Annexes**

**Report of the Registrar concerning the status of the transmission of the case file to
the common legal representatives pursuant to the Order of the Chamber
dated 13 July 2012**

Source: Registrar

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

The Office of the Prosecutor

Ms. Fatou Bensouda

Counsel for the Defence

Mr. Karim A.A. Khan

Mr. Nicholas Koumjian

Legal Representatives of the Victims

Ms. Hélène Cissé

Mr. Jens Dieckmann

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

Deputy Registrar

Mr. Didier D. Preira

Counsel Support Section

Mr. Esteban Peralta Losilla

Mr. Sam Sasan Shoamanesh

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Sir. Geoffrey Nice

Mr. Rodney Dixon

THE REGISTRAR of the International Criminal Court ("the Court");

PURSUANT to the decision of the Chamber dated 13 July 2012;¹ ordering "the Registry to revert back to the Chamber, no later than 7 August 2012, as to whether the files of the two victims formerly represented by the Former Legal Representatives have been transmitted to the common legal representatives" ("Order");

NOTING the "Order inviting the Registrar to appoint a common legal representative,"² and her invitation to the Former Legal Representatives to provide any case-related communication or materials to the common legal representatives newly appointed (Annex I);

NOTING the "Decision on common legal representation"³ and the Registrar's letter addressed to the Former Legal Representatives, reminding the latter of the contents of Annex I (Annex II);

NOTING the "Decision on the application for leave to appeal the "Decision on common legal representation";⁴

INFORMS the Honorable Judges of the Chamber of the following:

1. The Registry took immediate action in response to the Order by way of a correspondence addressed to the Former Legal Representatives, dispatched to the latter via both email correspondence and regular mail (Annex III). In the said letter/Annex III, the Registry invited the Former Legal Representatives to take all necessary measures to transfer all case related materials to the common legal representative *without further delay* and inform the Registry of this fact no later than 31 July 2012;

¹ Decision on the application for leave to appeal the "Decision on common legal representation" (ICC-02/05-03/09-367), dated 13 July 2012.

² ICC-02/05-03/09-209, dated 7 September 2011.

³ ICC-02/05-03/09-337, dated 25 May 2012.

⁴ ICC-02/05-03/09-367, dated 13 July 2012.

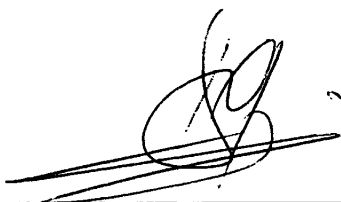
2. On 25 July 2012, the Registry transmitted the application forms of victims a/1646/10 and a/1647/10 to the new common legal representatives;⁵
3. On 27 July 2012, the Registry, by email addressed to the attention of the Former Legal Representatives, copied on their appointed case-manager, asked the former to confirm receipt of Annex III;
4. The Former Legal Representatives made the first contact with the Registry in response to Annex III, by telephone calls to a Registry official on 31 July 2012. Sir Geoffrey Nice, Q.C. – one of the Former Legal Representatives – confirmed they fully appreciate the need to transfer the file to the new appointed common legal representatives, and that they have no objection in doing so. They further informed the Registry that they have been attempting to arrange for travel to the field – circumstances in Sudan have delayed matters – to meet with their former clients to explain the situation and to receive their instructions to release the files in their entirety for the purposes of being transferred. The Former Legal Representatives further asserted that apart from the information already contained in the victims' applications, not much more material exists in the dossier, but that regardless, the full dossier will be transferred as soon as possible.
5. The Registry requested the Former Legal Representatives to submit their explanations in writing so as to duly inform the Chamber concerning the status of the transfer of the files. The Registry further underlined the need and obligation to transfer the materials to the newly appointed common legal representatives forthwith in accordance with the obligations placed on counsel as stipulated in Articles 15.2 and 18.5 of the *Code of Professional Conduct for counsel*, as well as the clear directions of the Chamber in this regard;

⁵ Email dated 25 July 2012, from Associate Legal Officer, Victims Participation and Reparations Section, to Helene Cisse and Jens Dieckmann.

6. The newly common legal representatives by email and two letters dated 2 August 2012 and 6 August 2012 respectively, invited the Former Legal Representatives to transmit all case related materials as required by the Chamber's decision and related correspondence of the Registry (Annex IV);
7. The Former Legal Representatives have furnished the following written correspondence on the issue of the pending transfer of the files, which are appended to the present for the Chamber's consideration (Annex V, written in response to the Registry's Annex II; Annex VI, written in response to the Registry's Annex III; and Annex VII, addressed to the newly appointed common legal representatives);
8. At the present, based on the information in the Registry's possession, the former and newly appointed common legal representative are in discussions concerning the question of the transfer of the files and the matter remains pending.

The Registry submits that the classification of the annexes as confidential *ex parte* is justified due to the fact that the annexed materials contain personal contact details.

The Registrar remains at the disposal of the Chamber for further assistance in this matter.



Didier D. Preira
Deputy Registrar
on behalf of
Silvana Arbia
Registrar

Dated this 7 August 2012

At The Hague, The Netherlands