

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 August 2012

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Silvia Fernández 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

With public Annex A

Public Redacted Version of “Prosecution’s Submission of a Draft Protocol on the Handling of Non-Public Information and Contact of a Party With Witnesses of the Opposing Party, and Prosecution’s Update on Expert Witness”, filed on 27 August 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

Ms. Fatou Bensouda, Prosecutor

Counsel for the Defence

Mr. Karim A.A. Khan QC
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

Counsel Support Section

Deputy Registrar

Mr. Didier Pereira

Victims and Witnesses Unit

Ms. Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparation
Section**

Other

1. [REDACTED].¹
2. [REDACTED].² Accordingly the Prosecution developed certain proposals internally and commenced discussions with the Defence.
3. In the course of discussions with the Defence, it transpired that there were several significant issues on which the parties had a divergence of position. Consequently, the Prosecution decided that it is preferable to make separate submissions on the proposed scope and content of the non-disclosure protocol.
4. [REDACTED].³ the Prosecution has also consulted with the Victims and Witnesses Unit ("VWU") on the proposed scope and content of the non-disclosure protocol.⁴ The attached draft protocol also reflects the VWU's input.
5. Accordingly, the Prosecution hereby submits as Confidential Annex "A" to this filing its proposals for Protocol on the handling of non-public information and contact of a party with witnesses of the opposing party ("Proposed Protocol").
6. The Proposed Protocol is based on similar protocols in other cases at the court and reflects standard court practice.⁵

¹ [REDACTED].

² [REDACTED].

³ [REDACTED].

⁴ The Prosecution shared only its own version of the Proposed Protocol with the VWU, therefore its consultations with the VWU were limited to that version alone.

⁵ See, *inter alia*, ICC-01/04-01/06-1372, ICC-02/11-01/11-49, ICC-01/04-01/07-2007-Anx1.

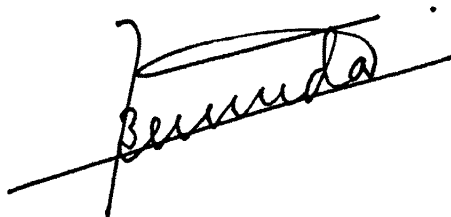
7. The Prosecution requests the Chamber to order all parties and participants to comply with the procedures set out in the Proposed Protocol.

Update on Prosecution Expert Witness

8. During the hearing and status conference held on 11 July 2012, the Chamber granted the Prosecution's oral request to inform the Chamber by 27 August 2012 as to its decision on whether it would seek leave to call an expert.⁶ The Prosecution informs the Chamber that, at this time, it does not envisage that it will call an expert witness at the trial of the accused persons.

Request for Receipt of this Filing as Confidential

9. The Prosecution has classified this filing as "*Confidential*" [REDACTED]. The Prosecution will file, simultaneously, a public redacted version of this filing and its Confidential annex.



Fatou Bensouda

Prosecutor

Dated this 31st day of August 2012

At The Hague, The Netherlands

⁶ ICC-02/05-03/09-T-17-ENG ET, p. 53, lines 9-14, p. 58, lines 16-22, p. 66, lines 7-16.