

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/05-03/09
Date: 19 October 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

**Public Redacted Version of "Update on Security Situation of Certain Individuals
attributed to "Second Category of Redactions", pursuant to the Decision of 12
September 2012", filed on 24 September 2012**

Source: Office of the Prosecutor

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

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I. Introduction

On 12 September 2012 Trial Chamber IV (“Chamber”), in its “Decision on the prosecution’s applications for lifting redactions on material related to Witnesses 315, 442 and 486 pursuant to Regulation 42 of the Regulations of the Court” (“12 September 2012 Decision”), ordered the Office of the Prosecutor (“OTP” or “Prosecution”) to provide further information on the security risks faced by the third parties who appear in the photographs provided by witness P-0315, and for whom the Prosecution had requested to maintain redactions to images on a temporary basis in its filing made on 5 July 2012¹ (“5 July 2012 Filing”).

II. Background

1. On 12 September 2012, the Chamber issued “*Decision on the prosecution’s applications for lifting redactions on material related to Witnesses 315, 442 and 486 pursuant to Regulation 42 of the Regulations of the Court*”.² In the decision, the Chamber granted the Prosecution’s request for lifting of redactions relating to the identifying information or images of certain third parties identified, *inter alia*, in the 5 July 2012 Filing.³ The Chamber also ordered the Prosecution to revert back to it on the security situation of the individuals in respect of whom the Chamber granted the Prosecution’s request to maintain redactions to the images on a temporary basis.⁴

III. Prosecution’s Submissions

¹ ICC-02/05-03/09-365-Conf-Exp.

² ICC-02/05-03/09-392.

³ ICC-02/05-03/09-392, paras 9-10, 13 (b) & (c).

⁴ ICC-02/05-03/09-392, paras 11, 13 (a).

2. The individuals that fall into this category are those individuals whose images appear in the photographs [REDACTED].

3. These photographs were addressed in paragraphs 4 to 11 of the 5 July 2012 Filing.⁵ At paragraph 9 of the filing the Prosecution stated that [REDACTED]⁶ It was for this reason that the Prosecution requested that *“the redactions to this category of photographs remain in force [REDACTED]”*.⁷

4. The Prosecution further explained [REDACTED].⁸ Accordingly, the Prosecution’s request for non-disclosure of the identity of these individuals attaches not [REDACTED], which the Prosecution assessed at paragraphs 5 and 6 of the 5 July 2012 Filing to be manageable, but [REDACTED].

5. [REDACTED].⁹ [REDACTED].¹⁰

6. For these reasons the Prosecution reiterates its request contained in the 5 July 2012 Filing that the redactions applied to the images of the third parties in *all* photographs – referred to in paragraphs 4 to 11 of the 5 July 2012 Filing [REDACTED], be maintained [REDACTED].¹¹

⁵ The Prosecution notes that following the literal interpretation of the relevant part of the Decision of 12 September 2012, the Chamber requested the update on *some* of these photographs [REDACTED], while authorizing the lifting of the redactions in respect of the others.

⁶ ICC-02/05-03/09-365-Conf-Exp, para. 9.

⁷ *Ibid.*

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

Clarification

7. The Prosecution wishes to provide clarification of its submissions concerning the need to maintain redactions related to the images [REDACTED] contained in the 5 July 2012 Filing.

8. The Prosecution's request in that filing was for all the five sub-categories [REDACTED] listed in paragraph 4 of the filing to be maintained. To this end, it provided the Chamber with an update on the [REDACTED], as opposed to seeking the lifting of redactions. The Prosecution attempted to clarify this in paragraphs 2 and 3 of the same filing. In short, it was for the category of redactions discussed in paragraphs 12 to 17 *only* that the Prosecution specifically requested that redactions be lifted.

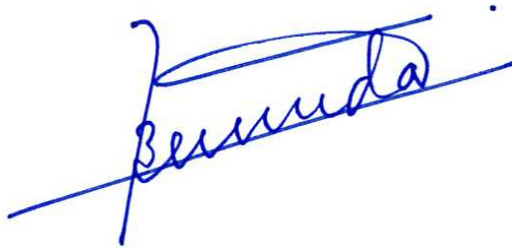
9. The Chamber appears to have authorised the lifting of redactions relating to the information addressed in paragraphs 5 and 6 of the filing, attributing this information to the "First Category of Redactions".¹² The Chamber then authorised that the redaction of the information addressed in subsequent paragraphs 7 to 11 be retained.¹³ In fact the Prosecution's request to maintain redactions to this category of photographs [REDACTED] contained in paragraph 9 of the 5 July 2012 Filing also extended to [REDACTED]. Consistent with its previous submissions on this issue, [REDACTED], the Prosecution has proceeded to re-disclose the material without lifting redactions to the images [REDACTED] appearing in the photographs depicting [REDACTED].

¹² See ICC-02/05-03/09-392, footnote 16, *inter alia*, referring to "ICC-02/05-03/09-365-Conf-Exp, paragraphs 5 to 6".

¹³ See ICC-02/05-03/09-392, footnote 21, referring to "ICC-02/05-03/09-365-Conf-Exp, paragraphs 7 to 11".

IV. Request for Receipt of the Filing as Confidential – *Ex Parte*

10. The Prosecution submits that the classification of this filing as *Confidential - Ex Parte - Prosecution and VWU Only* is necessary. The filing contains the discussion of the contents of witness material, [REDACTED], that is currently classified as confidential and *ex parte*, subject to protective measures [REDACTED] in force. The filing also addresses specific security-related matters of a confidential nature. The Prosecution will file a public redacted version of the present application.



Fatou Bensouda

Prosecutor

Dated this 19th day of October 2012

At The Hague, The Netherlands