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No.: ICC-02/05-03/09
Date: 1 February 2013

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

Public

Public Redacted Version of “Defence Submissions on Issues Relevant to a Potential Date for the Commencement of Trial Following the Public Status Conference Held on 29 January 2013” Filed on 1 February 2013

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:

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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

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Ms. Silvana Arbia

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The Defence for Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus ("Defence") respectfully submit additional information relevant to issues raised by the Trial Chamber during the public status conference held on 29 January 2013.¹
2. At the status conference, the Trial Chamber granted the Defence leave to file an *ex parte* submission on one issue.² Pursuant to the Trial Chamber's leave the Defence submit information on Issue 1 below.
3. In addition, the Defence seek to provide clarification regarding another issue, Issue 2, which is submitted on a public but redacted basis.

II. Submissions

(a) *Issue 1*³

4. [REDACTED],⁴ [REDACTED].
5. [REDACTED]. [REDACTED].⁵ [REDACTED].⁶
6. [REDACTED].⁷
7. [REDACTED].

¹ See ICC-02/05-03/09-T-21-CONF-ENG.

² See ICC-02/05-03/09-T-21-CONF-ENG, page 61, lines 11 to 18.

³ Pursuant to Regulation 23bis(1) of the Regulations of the Court and pursuant to the Trial Chamber's leave (see ICC-02/05-03/09-T-21-CONF-ENG, page 61, lines 11 to 18), this issue is submitted on an *ex parte* basis due to the sensitive and confidential nature of the information provided. A public redacted version will be submitted by the Defence on 1 February 2013.

⁴ [REDACTED].

⁵ [REDACTED].

⁶ [REDACTED]. [REDACTED]. [REDACTED].

⁷ [REDACTED]. [REDACTED].

8. [REDACTED].⁸

9. [REDACTED].

10. [REDACTED].⁹

(b) Issue 2

11. During the status conference, the Trial Chamber enquired when the Defence anticipate that they will be ready to start referring witnesses to the VWU.¹⁰ The Defence responded that “[they] have started.”¹¹ [REDACTED].¹² The Defence maintain that they “will only be in a position to make a decision on the witnesses they intend to call with sufficient certainty, and, therefore, make the last referral to VWU, once the necessary investigations have progressed – that is one year after final disclosure of evidence and completion of Zaghawa translations.”¹³

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ ICC-02/05-03/09-T-21-CONF-ENG, page 39, lines 14 to 16.

¹¹ ICC-02/05-03/09-T-21-CONF-ENG., page 39, line 17.

¹² Pursuant to Regulation 23bis(1) of the Regulations of the Court, this sensitive and confidential information redacted from the public version of this document and is provided on a confidential and *ex parte* basis.

¹³ See ICC-02/05-03/09-422-Red2, para. 37. See also fn. 43.

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 1st Day of February 2013

At The Hague, The Netherlands

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At The Hague, The Netherlands