

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-02/05-03/09
Date: 25 September 2013

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

With two confidential annexes – ex parte defense only

**Report of the Registry concerning the "Decision on the third defence application
pursuant to Article 57(3)(b) and 64(6)(a) of the Statute**

Source: The Registry

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. Adebawale Omofade

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

Mr Herman von Hebel

Deputy Registrar

Mr Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (“the Court”):

NOTING the “Public Redacted Version of Defence Application pursuant to Articles 57(3)(b) and 64(6)(a) of the Statute for an order for the preparation and transmission of a cooperation request to the Government of Nigeria”¹ dated 3 July 2013;

NOTING the “Public Redacted Version of the Decision on the third defence application pursuant to Articles 57(3)(b) and 64(6)(a) of the Statute”² (“the Decision”) dated 12 September 2013;

NOTING articles 87(6) of the Rome Statute, rules 176(2) and 177(2) of the Rules of Procedure and Evidence and regulation 23 *bis* of the Regulations of the Court;

CONSIDERING that Trial Chamber IV (“the Chamber”) ordered the Registry “(a) to transmit forthwith a cooperation request pursuant to Article 87(1)(a) of the Statute asking for the assistance of Nigeria in this matter; (b) to serve the request on Nigeria through the proper channels of communication as provided for in Rules 176(2) and 177(1) of the Rules; and (c) to report back to the Chamber on the implementation of the request no later than thirty days after notification of the present Decision”³;

CONSIDERING the Chamber ordered the Registry to “engage in further consultations with the African Union as to the time frame in which the organization intends to provide the documents and report thereon to the Chamber by 25 September 2013”⁴

¹ ICC-02/05-03/09-489-Red

² ICC-02/05-03/09-504-Red

³ ICC-02/05-03/09-504-Red, page 6

⁴ ICC-02/05-03/09-504-Red, page 6

INFORMS the Chamber as follow:

Regarding the African Union

1. An e-mail was sent by a Registry staff member on 17 September 2013 to the focal point of the Court in the African Union Commission to inquire about the timeframe when the requested documents will be transmitted to the Court. As of today, the Registry has not received a reply from the African Union Commission on this question. The Registry was not able to reach the focal point by phone but will follow up on this issue.
2. On 8 May 2013, the African Union Commission provided a reply to the Registry further to its request for assistance dated 4 January 2012⁵. The content of the reply from the African Union Commission was transmitted to the defense team⁶ on 15 May 2013. Both the reply and the subsequent request for clarification sent on 29 May 2013 by the Registry are annexed to the present filing (Annex 1).

Regarding the Federal Republic of Nigeria

3. On 18 September 2013, a note verbale was sent to the Embassy of Nigeria transmitting the Decision (Annex 2).

Level of classification

4. The present filing is classified public in line with the level of classification of the Decision. Annex 1 and 2 are classified confidential ex parte Defense only as references are made to the list of documents mentioned in a document with the same level of classification⁷.

⁵ ICC-02/05-03/09-284-Anx

⁶ ICC-02/05-03/09-289-Conf-Exp-AnxC

⁷ ICC-02/05-03/09-489-Conf-Exp-AnxA

5. Redactions have been applied to the reply of the African Union dated 8 May 2013 as it makes references to other requests for assistance than those concerning the defense team.

TRANSMITS to the Chamber:

- The reply from the African Union dated 8 May 2013 and the request for clarification sent by the Registry on 29 May 2013 (Annex 1- Confidential *ex parte* defense only).
- The note verbale sent to the Federal Republic of Nigeria dated 17 September 2013 as well as the Memorandum of notification signed on 18 September 2013 (Annex 2 – Confidential *ex parte* defense only).

RESPECTFULLY SUBMITTED



Herman von Hebel
Registrar

Dated this 25 September 2013

At The Hague, The Netherlands