

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-02/05-03/09
Date: 12 November 2013

TRIAL CHAMBER IV

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

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF THE PROSECUTOR

V.

ABDALLAH BANDA ABAKAER NOURAIN

**Public Document
with Confidential Annexes "A" to "E"**

Prosecution's Notification of Disclosure to the Defence of Rule 77 Material

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

Mr. James Stewart, Deputy Prosecutor

Mr. Ade Omofade, Trial Lawyer

Counsel for the Defence

Mr. Karim A.A. Khan QC

Mr. Nicholas Koumjian

Legal Representatives of Victims

Ms. Hélène Cissé

Mr. Jens Dieckmann

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

**Court Interpretation and Translation
Section**

1. The Office of the Prosecutor (“the Prosecution”) notifies Trial Chamber IV (“the Chamber”) of the disclosure of evidence on a number of occasions to the Defence of Mr. Abdallah Banda Abakaer Nourain (“Defence”).
2. On 25 January 2013, the Prosecution disclosed to the Defence five admissions of fact relating to five documents received from the First Provider subject to Article 54(3)(e) conditions.¹ The Prosecution has already disclosed narrative summaries to the Defence for each of the documents concerned.²
3. On 2 May 2013, following the “*Decision concerning the trial commencement date, the date for final prosecution disclosure, and summonses to appear for trial and further hearings*”,³ the Prosecution disclosed the following evidence as “material to the preparation of the defence pursuant to Rule 77”: screening notes of trial witnesses **P-0442**, **P-0445**, **P-0439** and **P-0486**; previous statements provided by witnesses **P-0304** and **P-0305**; photographs provided by **P-0441**; transcript of the witness interview of **P-0441**; witness statement of **P-0467**, witness statement of **P-0471** in English and French.⁴ Through Trial Rule 77 - package 14 the Prosecution disclosed seven excerpts of screening notes of certain

¹ ICC-02/05-03/09-276-Red, para 1. See Confidential Annex A.

² Trial Rule 77 package 10; see ICC-02/05-03/09-420-Conf-AnxA.

³ ICC-02/05-03/09-455.

⁴ Trial Rule 77 package 12 consists of 254 items. The complete list of disclosed items is attached to this filing as Confidential Annex B.

individuals considered to have Rule 77 value.⁵ On the same day, the Prosecution re-disclosed previously disclosed Rule 77 evidence with certain redactions now lifted.⁶

4. On 31 July 2013, the Prosecution disclosed to the Defence Annexes A, B and C to the statement of witness P-0471 as pursuant to Rule 77.⁷ These three annexes had been inadvertently omitted from Rule 77 package 12 disclosed on 2 May 2013.

5. Rule 77 packages 12-15 were disclosed pursuant to the *“Decision concerning the trial commencement date, the date for final prosecution disclosure, and summonses to appear for trial and further hearings”*,⁸ and the *“Decision on the prosecution’s request for non-disclosure or redactions of material relating to Witnesses 304, 305, 306 and 312”*.⁹ The Prosecution disclosed these packages in line with the provisions contained in the *“Protocol on the handling of confidential information and contact between a party and witnesses of the opposing party”*.¹⁰

⁵ Trial Rule 77 package 14 consists of 7 items. See further Confidential Annex D for the full list of disclosed items.

⁶ Trial Rule 77 package 13 consists of 101 items. See Confidential Annex C for the full list of disclosed items.

⁷ Trial Rule 77 package 15 contains three items annexes to the statement of witness P-0471. The complete list of disclosed items is attached to this filing as Confidential Annex E.

⁸ ICC-02/05-03/09-455.

⁹ ICC-02/05-03/09-265-Red.

¹⁰ ICC-02/05-03/09-451-Anx.

Request for Confidentiality

6. The annexes "A" to "E" appended to this communication contain the "*Prosecution's Communication of Admissions of Fact*" provided to the Defence as well as the relevant disclosure notes. The Prosecution requests that these annexes be received as "Confidential" as they relate to *inter partes* disclosures.



Fatou Bensouda

Prosecutor

Dated this 12th day of November 2013

At The Hague, The Netherlands