

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 13 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", "B", "C" and "D"**

**Prosecution's Notification of Disclosure to the Defence of Potentially Exonerating
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

Counsel Support Section

Deputy Registrar

Detention Section

Victims and Witnesses Unit

**Victims Participation and Reparations
Section**

**Court Interpretation and Translation
Section**

1. The Office of the Prosecutor (“Prosecution”) notifies Trial Chamber IV (“Chamber”) of the following disclosures of Potentially Exonerating (“PEXO”) material:
2. On 17 September 2012, the Prosecution re-disclosed to the Defence team of Mr. Abdallah Banda Abakaer Nourain (“Defence”) the statement of witness P-0447 with certain redactions lifted¹ pursuant to the Chamber’s *“Decision on the prosecution’s application for lifting redactions on material relating to Witness P-0307 and P-0484 pursuant to Regulation 42 of the Regulations of the Court”*.²
3. On 2 May 2013, the Prosecution disclosed the following:
 - a) **New PEXO evidence:**³
 - The prior statement of witness **P-0306**;
 - Second unsigned statement of witness **P-0466**.
 - b) **Previously disclosed PEXO evidence with certain redactions now lifted:**⁴
 - Redactions related to the identity of certain witnesses;
 - Names and signatures of former OTP staff members that were previously authorized pursuant to Rule 81(2).
4. PEXO packages 8 and 9 were disclosed pursuant to the *“Decision concerning the trial commencement date, the date for final prosecution disclosure, and summonses to appear*

¹ Trial PEXO package 7. See Confidential Annex A.

² ICC-02/05-03/09-393.

³ Trial PEXO package 9 consists of 2 items. See Confidential Annex C.

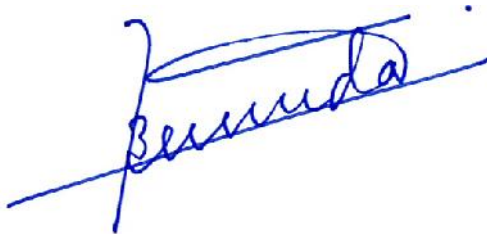
⁴ Trial PEXO package 8 consists of 72 items. See further Confidential Annex B.

for trial and further hearings”,⁵ and “Decision on the prosecution's request for non-disclosure or redactions of material relating to Witnesses 304,305,306 and 312”.⁶

5. On 30 August 2013, pursuant to the “Decision on Protection Measures Requested in Prosecution's Update on Cooperation Issues”,⁷ the Prosecution disclosed narrative summaries of two documents.⁸
6. The Prosecution disclosed the above PEXO content pursuant to the “Protocol on the handling of confidential information and contact between a party and witnesses of the opposing party”.⁹

Request for Confidentiality

7. Annexes “A, “B”, “C” and “D” appended to this communication contain 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 13th day of November 2013

At The Hague, The Netherlands

⁵ ICC-02/05-03/09-455.

⁶ ICC-02/05-03/09-265-Red.

⁷ ICC-02/05-03/09-500-Red.

⁸ Trial PEXO package 10. See further Confidential Annex D.

⁹ ICC-02/05-03/09-451-Anx.