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THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding Judge
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka
Judge Christine Van den Wyngaert

SITUATION IN THE DARFUR, SUDAN

***IN THE CASE OF THE PROSECUTOR v.
ABDALLAH BANDA ABAKAER NOURAIN***

Public

**Public redacted version of "Prosecution's response to Mr Banda's appeal against
the decision issuing a warrant of arrest", 23 January 2015,
ICC-02/05-03/09-629-Conf-Exp**

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

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Introduction

1. The appeal¹ filed by the Defence of the Accused, Mr Abdallah Banda Abakaer Nourain (“Defence”) against the warrant of arrest issued on 11 September 2014² should be rejected. The Trial Chamber (“Chamber”) did not err in not giving the Defence “adequate notice, let alone an opportunity to be heard, on the legal and factual basis, as well as the propriety, of replacing the summons with an arrest warrant”.³

2. First, the Defence’s submissions are not supported by the facts of this case. From 19 June 2012, [REDACTED], the Trial Chamber engaged the Defence in a lengthy discussion over a period of more than two years to ensure Mr Banda’s appearance at trial. During this period, the Defence was clearly put on notice that the Chamber was contemplating the issuance of an arrest warrant and was given ample opportunity to make submissions on the legal and factual basis for, as well as the propriety of, replacing the summons to appear with an arrest warrant. Indeed, the Defence even made some submissions on the subject; however, it was evasive in answering questions from the Chamber, and with respect to [REDACTED] Mr Banda’s appearance, it gave contradictory answers. Over this prolonged process of consultation, the Defence was given several opportunities to make submissions on the matter. It cannot now say that it was denied either notice or the opportunity to make submissions on the propriety of issuing an arrest warrant in place of the summons to appear.

3. Second, the Chamber did not err in its approach to the Defence’s submissions because it was not legally obliged to hear submissions from the Defence on matters pertaining to the issuance of an arrest warrant. Proceedings under article

¹ ICC-02/05-03/09-625-Conf; ICC-02/05-03/09-625-Red (“Appeal Brief”).

² ICC-02/05-03/09-606 (“Arrest Warrant”).

³ Appeal Brief, para.40; see also para.4.

58 of the Rome Statute (“Statute”) are not adversarial, and the circumstances of this case do not justify a deviation from that principle.

4. Third, the Defence fails to show that the Chamber’s approach materially affected the Decision. The Chamber would not have rendered a substantially different decision even if it had consulted the Defence on further occasions. In fact, during consultations that took place after the Arrest Warrant was issued, the Defence clearly stated that Mr Banda would not appear for his trial in circumstances in which (a) the cooperation of the GoS in facilitating his appearance before the Court was not forthcoming; and (b) the Court was not in a position to [REDACTED].⁴ Finally, any hypothetical error by the Chamber would not cause Mr Banda any unfair prejudice. The Chamber noted that if Mr Banda were to appear voluntarily, it would “revisit accordingly the conditions of his stay in The Netherlands during trial”.⁵

Confidentiality

5. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, the Office of the Prosecutor (“Prosecution”) files this response on a confidential and *ex parte* basis, as it refers to information that is subject to the same classification. It will file a public redacted version of this response as soon as possible.

Procedural matters

6. The Prosecution draws to the attention of the Defence the Appeals Chamber’s recent instruction to “all parties” before it, concerning the inclusion in written filings of a word count and appropriate certification .⁶

⁴ ICC-02/05-03/09-614-Conf-Exp, paras.13-14.

⁵ Arrest Warrant, para.24.

⁶ See fn.84 below.

Statement of facts

7. In addition to the background information provided by the Defence in its Appeal Brief,⁷ the following summary provides additional factual information of relevance to this appeal.
8. On 20 November 2008, the Prosecution requested an arrest warrant for Mr Banda.⁸ It indicated that a summons to appear “could be an alternative pursued by the Court”.⁹ On 27 August 2009, Pre-Trial Chamber I issued a summons to appear, finding that it was “sufficient to ensure [Mr Banda’s] appearance before the Court within the meaning of article 58(7) of the Statute, without prejudice to the Chamber’s power to review its determination under articles 58(1) and 58(7) of the Statute, respectively.”¹⁰
9. Mr Banda appeared before the Court at his initial appearance on 17 June 2010.¹¹ Prior to the confirmation of charges hearing, the Defence informed the Pre-Trial Chamber that Mr Banda waived his right to be present at the confirmation hearing and requested that it be held in his absence, pursuant to article 61(2)(a) of the Statute and rule 124 of the Rules of Procedure and Evidence (“Rules”).¹² Accordingly, Mr Banda was not present during the confirmation of charges hearing, which took place on 8 December 2010.¹³ Pre-Trial Chamber I confirmed charges against Mr Banda on 7 March 2011.¹⁴

⁷ Appeal Brief, paras.6-26.

⁸ ICC-02/05-03/09-20-Red.

⁹ ICC-02/05-03/09-20-Red, paras.10, 170.

¹⁰ ICC-02/05-03/09-3, para.20.

¹¹ ICC-02/05-03/09-T-4-ENG.

¹² ICC-02/05-03/09-80, para.9.

¹³ ICC-02/05-03/09-T-9-Red-ENG, p.1, ln.11.

¹⁴ ICC-02/05-03/09-121-Corr-Red.

10. During a status conference held before the Trial Chamber on 19 June 2012, [REDACTED].¹⁵ [REDACTED],¹⁶ [REDACTED].¹⁷ [REDACTED].¹⁸ [REDACTED]¹⁹ [REDACTED].²⁰ [REDACTED]. [REDACTED].²¹
11. During a status conference held on 7 April 2014, [REDACTED]²² [REDACTED].²³ [REDACTED].²⁴ [REDACTED].²⁵ [REDACTED].²⁶ [REDACTED]²⁷ [REDACTED].²⁸ [REDACTED].²⁹
12. On 10 April 2014, the Chamber issued a written instruction to the Defence to inform it [REDACTED] whether Mr Banda would comply with the summons to appear at his trial [REDACTED].³⁰ The Defence, yet again, failed to provide a clear answer in its 14 April 2014 filing. [REDACTED]³¹ [REDACTED],³² [REDACTED]. [REDACTED].³³ [REDACTED].
13. On 6 May 2014, the Prosecution filed submissions following a decision by the Chamber to vacate the trial date. It argued that the appearance of Mr Banda at the trial was not negotiable and that “[a]ny failure on his part to abide by the Trial Chamber’s order for the commencement of trial should lead to the immediate issuance of an arrest warrant against him.”³⁴

¹⁵ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.2, ln.1 ([REDACTED]).

¹⁶ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.22, lns.7-8.

¹⁷ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.2, lns.10-19; p.22, lns.15-16.

¹⁸ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.22, lns.3-14; see also p.24, lns.3-7 and 18-20; p.25, lns.7-9; p.25, ln.16-p.26, ln.5.

¹⁹ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.29, lns.12-13.

²⁰ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.30, lns.2-5.

²¹ ICC-02/05-03/09-T-16-CONF-EXP-ENG, p.30, lns.5-12.

²² ICC-02/05-03/09-T-25-CONF-ENG, p.2, lns.24-25.

²³ ICC-02/05-03/09-T-25-CONF-ENG, p.3, ln.7-p.6, ln.24.

²⁴ ICC-02/05-03/09-T-25-CONF-ENG, p.5, ln.13-p.6, ln.3.

²⁵ ICC-02/05-03/09-T-25-CONF-ENG, p.8, lns.1-7.

²⁶ ICC-02/05-03/09-T-25-CONF-ENG, p.7, lns.8-11.

²⁷ ICC-02/05-03/09-T-25-CONF-ENG, p.8, lns.11-12; see also p.9, lns.7-9.

²⁸ ICC-02/05-03/09-T-25-CONF-ENG, p.17, lns.9-12.

²⁹ ICC-02/05-03/09-T-25-CONF-ENG, p.20, lns.5-8.

³⁰ ICC-02/05-03/09-553-Conf, para.14.

³¹ ICC-02/05-03/09-560-Conf, para.4(a).

³² ICC-02/05-03/09-560-Conf, para.4(b)-(d).

³³ ICC-02/05-03/09-560-Conf, para.4(b).

³⁴ ICC-02/05-03/09-576-Conf, para.3.

14. On 14 July 2014, the Chamber instructed the Registrar to inform the GoS of the summons to appear against Mr Banda and to transmit to the GoS a cooperation request “to take all necessary steps to facilitate Mr Banda’s presence for his trial, including by providing him with travel documents and making all other necessary arrangements as may be appropriate”.³⁵
15. At this point, on 9 September 2014, the Defence changed its position by arguing that Mr Banda’s appearance at his trial [REDACTED].³⁶ [REDACTED]³⁷ [REDACTED].³⁸
16. Two days later, on 11 September 2014, the Chamber issued, by majority, the Arrest Warrant.³⁹ It found that “regardless of whether Mr Banda wishes or not to be present at trial, there are no guarantees that in the current circumstances, he will be in an objective position to appear voluntarily”.⁴⁰ As a result, it ruled that “in accordance with Article 58(1)(b)(i) of the Statute, a warrant of arrest now appears necessary to ensure Mr Banda’s presence at trial”.⁴¹
17. In its application for leave to appeal against the issuance of the Arrest Warrant⁴² and in its reply,⁴³ the Defence changed its position yet again by stating that Mr Banda [REDACTED].⁴⁴ The Defence confirmed that [REDACTED]⁴⁵ and that he would not appear for his trial when (a) the cooperation of the GoS in facilitating his appearance before the Court was not forthcoming; and (b) the Court was not in a position to [REDACTED].⁴⁶ Thus, the Defence made clear that Mr Banda

³⁵ ICC-02/05-03/09-590-Red, para.37(c).

³⁶ ICC-02/05-03/09-605-Conf, paras.27, 24.

³⁷ ICC-02/05-03/09-605-Conf, para.3.

³⁸ ICC-02/05-03/09-605-Conf, para.29.

³⁹ ICC-02/05-03/09-606 (with dissenting opinion of Judge Eboe-Osuji).

⁴⁰ Arrest Warrant, para.21.

⁴¹ Arrest warrant, para.24.

⁴² ICC-02/05-03/09-608-Conf-Exp, para.32 (17 September 2014).

⁴³ ICC-02/05-03/09-614-Conf-Exp (6 October 2014).

⁴⁴ ICC-02/05-03/09-614-Conf-Exp, para.11.

⁴⁵ ICC-02/05-03/09-614-Conf-Exp, para.15

⁴⁶ ICC-02/05-03/09-614-Conf-Exp, paras.13-14.

would not voluntarily appear for trial unless and until his [REDACTED] demands were met.

Submissions

(i) The alleged error is not supported by the facts of this case

18. The Defence incorrectly asserts that it was not provided “adequate notice, let alone an opportunity to be heard, on the legal and factual basis, as well as the propriety, of replacing the summons with an arrest warrant”.⁴⁷ As the above statement of facts demonstrates,⁴⁸ the Defence was clearly put on notice that the Chamber was contemplating the issuance of a warrant of arrest against Mr Banda to ensure his appearance at trial, should the circumstances require it.
19. At the outset, when the Pre-Trial Chamber issued its summons to appear for Mr Banda, it emphasised that it had the power to reconsider its determination if, due to a change in circumstances, Mr Banda’s arrest appeared necessary.⁴⁹ This alone was sufficient to put the Defence on notice that the summons to appear could be replaced by an arrest warrant to ensure Mr Banda’s presence at trial, potentially by a Chamber acting *proprio motu*.
20. Thereafter, the Trial Chamber engaged the Defence in discussions that spanned over two years to determine whether Mr Banda would appear for trial pursuant to the summons. During this process, the Defence was given ample opportunity to make submissions on any relevant legal and factual matters. As early as 19 June 2012, [REDACTED]. [REDACTED]. [REDACTED].⁵⁰ Again on 7 April 2014,⁵¹

⁴⁷ Appeal Brief, para.40; see also para.4. The Defence frames the error in a somewhat narrower way at para.31.

⁴⁸ See paras.7-17 above.

⁴⁹ ICC-02/05-03/09-3, para.20.

⁵⁰ See para.10 above.

⁵¹ See para.11 above.

14 April 2014⁵² and 9 September 2014,⁵³ the Defence was given further opportunities to make submissions on whether and under what circumstances Mr Banda would appear at his trial, and did so by providing factual and legal arguments. [REDACTED] the Defence stated that Mr Banda would be unable to attend trial pursuant to the summons unless certain conditions were met.

21. The Defence incorrectly asserts that any discussions concerning the potential replacement of the summons with a warrant of arrest were “brief and cursory”.⁵⁴ The question is not how “detailed” the discussions were, but whether the Defence had an adequate opportunity to make relevant submissions. The procedural history of this case demonstrates that it had such opportunities and adequately made use of them. The fact that the Defence chose not to make more detailed submissions is irrelevant to this appeal.

22. The Defence’s argument that it did not have an opportunity to address whether “a summons to appear is intended for individuals that are not only personally willing to appear on a voluntary basis but are also in a position to do so”⁵⁵ is unsupported. To the contrary, every time Mr Banda’s appearance at trial was discussed the Defence was free to make submissions on this issue. In particular, at the status conference on 7 April 2014, the Chamber specifically commented that [REDACTED].⁵⁶ Instead of taking this opportunity to make legal and factual submissions on the topic, the Defence [REDACTED].⁵⁷

23. Finally, the Defence argues that the Chamber erred by not inviting the Defence to make further legal and factual submissions, once it was satisfied that Mr Banda was objectively unable to appear voluntarily for trial.⁵⁸ This argument is

⁵² See para.12 above.

⁵³ See para.15 above.

⁵⁴ Appeal Brief, para.40.

⁵⁵ Appeal Brief, paras.3(i); 42(i).

⁵⁶ ICC-02/05-03/09-T-25-CONF-ENG, p.8, lns.1-7.

⁵⁷ ICC-02/05-03/09-T-25-CONF-ENG, p.8, lns.11-12; see also p.9, lns.7-9.

⁵⁸ Appeal Brief, paras.3(ii), 31, 42(ii).

misconceived. It assumes that the Chamber should have taken a multiple-step approach by first deciding that he would not appear voluntarily and then asking for submissions on the factual and legal consequences of its prior factual determination. Instead, the Chamber correctly took a comprehensive decision on the totality of the facts before it and entered the necessary legal conclusions. After the Chamber was satisfied (based, *inter alia*, on the Defence's previous submissions⁵⁹) that Mr Banda would not appear voluntarily for trial, and that he was objectively not able to do so,⁶⁰ it concluded that the arrest of Mr Banda was necessary to ensure his appearance at trial and correctly entered such a finding. The Defence does not demonstrate any error in this approach.

24. Since the Defence's submissions in support of its appeal are factually unsupported, the appeal should be rejected.

(ii) The alleged error is not supported by the applicable law

25. In any event, the Trial Chamber committed no error in its approach since it was not obliged to hear submissions from the Defence on the issuance of an arrest warrant.⁶¹ Proceedings under article 58 are not adversarial in nature, and as such the Defence has no right to be heard on the matter. It would be illogical for a Chamber to involve, as a matter of law, a person against whom an arrest warrant were to be issued, in a discussion on whether to issue such a warrant. Such a course would undermine the reasons under article 58(1)(b) for issuing an arrest warrant, namely to ensure the person's appearance at trial, to avoid the obstruction of the investigation or proceedings, and/or to prevent the person from continuing with the commission of crimes.

⁵⁹ See paras.10-11 above.

⁶⁰ Arrest Warrant, para.21.

⁶¹ *Contra*, Appeal Brief, para.32.

26. The general applicability of the *audi alteram partem* principle⁶² is not an issue in this appeal. It has not been certified for appeal⁶³ and the Appeals Chamber should not decide it. The sole question is whether in this case, Mr Banda had a right to be heard before the Chamber issued the Arrest Warrant pursuant to article 58(1)(b)(i).⁶⁴ The Prosecution submits that he had no such right.
27. Further, as a matter of law the principle of *audi alteram partem* does not apply to the issuance of warrants of arrest under article 58. Pre-Trial Chamber II in the *Kenya* situation found as follows:⁶⁵

[H]ad the drafters intended that the proceedings under article 58 of the Statute be conducted on an adversarial basis, they would have *expressis verbis* provided for it (*ubi lex voluit dixit, ubi noluit tacuit*), alongside the other instances wherein the voices of parties or participants shall or may be heard by a Chamber. On the contrary, the wording of article 58 of the Statute clearly indicates that the decision as to whether a warrant of arrest or a summons to appear should be issued is to be based upon an examination of "the application and the evidence or other information submitted by the Prosecutor" only. No role, actual or potential, is provided or anticipated for the person named in the Prosecutor's application under article 58 of the Statute.

28. Nor does the *ex parte* character of article 58 violate Mr Banda's right to fair proceedings.⁶⁶ Article 60(2) provides that a person who is subject to a warrant of arrest may challenge the arrest warrant once he or she is detained by the Court, by applying for interim release. At that stage, Mr Banda could exercise his right to be heard with respect to the legal and factual basis, as well as the propriety, of replacing the summons with an arrest warrant.⁶⁷ According to the Appeals

⁶² *Contra*, Appeal Brief, paras.33-37.

⁶³ See ICC-02/05-03/09-619-Conf, para.55: "Whether [the Chamber] erred in not hearing further from the defence on the appropriateness of replacing the summons to appear by a warrant of arrest after being satisfied that the accused would not appear voluntarily for his trial."

⁶⁴ ICC-02/05-03/09-619-Conf, para.55. See further Appeal Brief, para.4.

⁶⁵ ICC-01/09-42, para.18; see also ICC-01/09-35, para.10.

⁶⁶ *Contra*, Appeal Brief, para.44.

⁶⁷ ICC-01/04-01/07-572 OA6, paras.10, 12; see also ICC-01/05-01/08-631-Red OA2, para.58. According to the Appeals Chamber, the third sentence of rule 118(3) provides that "the parties must be given an opportunity to

Chamber, “[t]he human right of a person to have recourse to judicial review of a decision affecting his liberty is entrenched in Article 60 of the Statute.”⁶⁸

29. The principle articulated by the Pre-Trial Chamber in the *Kenya* situation is applicable to the present case, notwithstanding the somewhat different circumstances.

30. Contrary to the Defence’s contention, it does not matter that Mr Banda had previously voluntarily appeared before the Court pursuant to a summons.⁶⁹ The decision to issue the Arrest Warrant is a *new* decision by the Trial Chamber under article 58(1)(b), even if the Trial Chamber reviewed the Pre-Trial Chamber’s prior determination that at that time the arrest of Mr Banda was not necessary.⁷⁰ This new decision (namely, to issue the Arrest Warrant) replaces the Pre-Trial Chamber’s prior determination under article 58(1)(b) that the Accused’s arrest was not necessary. However, it has no impact on either the Pre-Trial Chamber’s prior ruling under article 58(1)(a) that reasonable grounds existed to believe that the Accused committed a crime within the jurisdiction of the Court, or its subsequent confirmation of charges under article 61. Given the narrow scope of the decision to issue the Arrest Warrant, there is no reason why the general principle relating to the *ex parte* character of article 58 proceedings⁷¹ should not apply in this case.

31. Nor does rule 121(1) expand Mr Banda’s procedural rights to give him standing to be heard on matters concerning the issuance of the Arrest Warrant as a result of his previous appearance before the Court.⁷² The Appeals Chamber has found

submit their observations before the Chamber makes a decision on interim release or continued detention of a person: ICC-01/05-01/08-1937-Red2 OA9, para.64; see also para.66.

⁶⁸ ICC-01/04-01/06-926 OA8, para.13; ICC-01/04-01/07-572 OA6, para.17.

⁶⁹ Appeal Brief, para.38.

⁷⁰ *Contra*, Appeal Brief, para.39. Decisions under article 58 are to be reviewed pursuant to article 60.

⁷¹ See paras.27-28 above.

⁷² The first two sentences of rule 121(1) provide as follows: “A person subject to a warrant of arrest or a summons to appear under article 58 shall appear before the Pre-Trial Chamber, in the presence of the

that “the reason rule 121(1) makes article 67 applicable to a person appearing before the Pre-Trial Chambers at the pre-trial stage is that the person has to undergo a proceeding akin to a trial, namely the confirmation hearing”.⁷³ Accordingly, the procedural rights that are attached to the confirmation process do not, as a result of rule 121(1), extend to a determination under article 58(1)(b) as to whether the arrest of a person appears necessary.

32. Finally, the Defence’s arguments going to the merits of the Trial Chamber’s decision to issue the Arrest Warrant should be disregarded. The Defence submits that a finding that the “accused would not appear voluntarily for his trial” should not mechanically result in the issuance of a warrant of arrest.⁷⁴ However, as the Defence itself concedes, their appeal is a procedural one for which it is unnecessary to determine whether the Chamber was correct on the merits of its decision to issue the Arrest Warrant.⁷⁵ Their arguments going to the merits of the decision do not demonstrate why the Chamber was obliged to deviate from the general principle of the *ex parte* character of article 58 proceedings in this case.

33. In sum, none of the arguments advanced by the Defence demonstrate that the Trial Chamber was obliged to hear the Defence on matters of law or fact before issuing the Arrest Warrant. As a result the appeal must be rejected.

(iii) Any alleged error did not materially affect the Arrest Warrant and did not unfairly prejudice Mr Banda

34. In any event, the appeal must be dismissed⁷⁶ because the Defence fails to show that the Trial Chamber’s approach materially affected its decision to issue the

Prosecutor, promptly upon arriving at the Court. Subject to the provisions of articles 60 and 61, the persons shall enjoy the rights set forth in article 67.”

⁷³ ICC-02/04-01/05-408 OA3, para.66.

⁷⁴ Appeal Brief, paras.45-48.

⁷⁵ Appeal Brief, para.32.

⁷⁶ ICC-02/11-01/11-321 OA 2, para. 44; ICC-01/04-01/07-1497 OA8, paras.37-38.

Arrest Warrant.⁷⁷ The Defence fails to demonstrate any link between the alleged error and the Arrest Warrant.⁷⁸ In particular, the Defence has not shown that the Chamber would have rendered a substantially different decision if it had given the Defence a further opportunity to be heard.⁷⁹

35. In fact, the discussions that continued with the Defence after the issuance of the Arrest Warrant only corroborate the correctness of the Chamber's decision to issue the Arrest Warrant, by showing that an arrest warrant was necessary to ensure Mr Banda's appearance at trial. In a submission filed on 6 October 2014, the Defence stated in clear terms that Mr Banda would not appear for his trial in circumstances in which a) the cooperation of the GoS in facilitating his appearance before the Court was not forthcoming; and b) the Court was not in a position to [REDACTED].⁸⁰ These Defence submissions confirm that any alleged error by the Trial Chamber "was inconsequential and did not materially affect the correctness of the overall finding".⁸¹

36. Finally, any alleged error by the Trial Chamber does not cause unfair prejudice to Mr Banda, as the Arrest Warrant continues to allow him to appear voluntarily if he so chooses. In such a case, the Chamber has stated that it would "revisit accordingly the conditions of his stay in the Netherlands during trial".⁸² As the Appeals Chamber of the Special Court for Sierra Leone consistently held, "procedural errors that could be corrected or waived or ignored (as immaterial or inconsequential) without injustice to the parties would not be regarded as procedural errors occasioning a miscarriage of justice."⁸³

⁷⁷ Appeal Brief, para.31.

⁷⁸ ICC-02/04-01/05-408 OA3, para. 51.

⁷⁹ ICC-02/11-01/11-321 OA2, para.44; ICC-01/04-169 OA, para.84.

⁸⁰ ICC-02/05-03/09-614-Conf-Exp, paras.13-14; see also para.17 above.

⁸¹ ICC-02/04-179 OA2, para.40.

⁸² Arrest Warrant, para.24.

⁸³ *Prosecutor v. Fofana et al.*, SCSL-04-14-A, Judgment, 28 May 2008, para.35; *Prosecutor v. Sesay et al.*, SCSL-04-15-A, Judgment, 26 October 2009, para.34.

Conclusion

37. For the reasons set out above, the Defence Appeal should be rejected.

Word count: 4.644⁸⁴



Fatou Bensouda, Prosecutor

Dated this 27th day of January 2015

At The Hague, The Netherlands

⁸⁴ It is certified that this document contains the number of words specified and complies in all respects with the requirements of Regulation 36 of the Regulations of the Court. This statement (53 words), not itself included in the word count, follows the Appeals Chamber's direction to "all parties" appearing before it: ICC-01/11-01/11-565, para.32.