

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09

Date: 24 May 2012

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 document

**Order to the prosecution for information on potentially exculpatory evidence or
Rule 77 material**

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo

Ms Fatou Bensouda

Counsel for the Defence

Mr Karim A.A. Khan

Mr Nicholas Koumjian

Legal Representatives of Victims

Ms H el ene Ciss e

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

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

1. On 6 January 2012, the defence for Messrs Abdallah Banda Abakaer Nourain and Saleh Mohamed Jerbo Jamus (“defence”) filed a request for a temporary stay of proceedings,¹ in which it submits, *inter alia*, that “current circumstances make it impossible for Messrs. Banda and Jerbo to present an effective defence”.² The defence contends that as a result of the alleged inability of the Office of the Prosecutor (“prosecution”) to discharge part of its obligations under Article 54 of the Rome Statute (“Statute”), “[n]one of the evidence disclosed to date adequately investigates the many leads from exonerating evidence”.³
2. In the context of this request and in order to enable the Trial Chamber to fully assess the overall position as regards disclosure, the Chamber, pursuant to Article 64(3)(c) of the Statute and Regulation 28(1) of the Regulations of the Court, directs the prosecution to provide additional details and information on the evidence disclosed to the defence to date pursuant to Article 67(2) of the Statute or provided pursuant to Rule 77 of the Rules of Procedure and Evidence (“Rules”).
3. For this reason, the Chamber orders the prosecution to submit, no later than 4 June 2012, a list of items of evidence provided to the defence under Article 67(2) or Rule 77, including the following information:
 - a. a concise summary of, or information about, the content of each item;
 - b. a brief explanation of the reasons why such item of evidence is believed to (i) show or tend to show the innocence of the accused, or to mitigate the guilt of the accused, or affect the credibility of prosecution evidence, and/or (ii) be material to the preparation of the defence; and
 - c. for each disclosed item, any other relevant information, such as the document date, the date of disclosure, the confidentiality level, whether each item has been disclosed in full or in redacted form and its translation status.

¹ Defence Request for a Temporary Stay of Proceedings, 6 January 2012, ICC-02/05-03/09-274, with annexes.

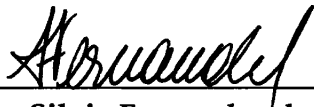
² *Ibid.*, para. 1.

³ *Ibid.*, para. 37.

Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch
Presiding Judge



Judge Silvia Fernandez de Gurmendi



Judge Chile Eboe-Osuji

Dated this 24 May 2012

At The Hague, The Netherlands