

**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

Order to the prosecution following the Appeals Chamber's Judgment of 28 August 2013 against Trial Chamber IV's 'Decision on the Defence's Request for Disclosure of Documents in the Possession of the Office of the Prosecutor''

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Adebowale Omofade

Counsel for the Defence

Mr Karim A.A. Khan

Mr Nicholas Koumjian

Legal Representatives of Victims

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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

1. On 28 August 2013, the Appeals Chamber rendered the “Judgment on the appeal of Mr Abdallah Banda Abakaer Nourain and Mr Saleh Mohammed Jerbo Jamus against the decision of Trial Chamber IV of 23 January entitled ‘Decision on the Defence’s Request for Disclosure of Documents in the Possession of the Office of the Prosecutor’” (“Judgment”), reversing the decision of Trial Chamber IV (“Chamber”) and directing the Chamber to decide anew on the “Defence’s Request for Disclosure of Documents in the Possession of the Office of the Prosecutor” of 20 October 2011.¹

2. Being mindful of the Appeals Chamber’s directions in paragraphs 39 to 44 of the Judgment, the Office of the Prosecutor (“prosecution”) is hereby directed to comply with those directions as well as the following ones:

(a) in application of the principle of publicity of the proceedings enshrined in Articles 64(7) and 67(1) of the Rome Statute and pursuant to Regulations 23*bis*(1), 42 and 28 of the Regulations of the Court, the prosecution is **directed**, if it has not done so yet, to file an application before the relevant Pre-Trial Chamber for the re-classification of the documents as set out at paragraphs 43 and 44 of the Judgment, and inform the Chamber of the outcome of such application; and

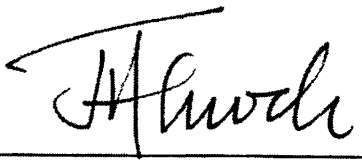
(b) the prosecution is **directed**, pursuant to Articles 64(3)(c), 64(6)(f) and 67(2) of the Rome Statute, Rules 81 and 77 of the Rules of Procedure and Evidence and Regulations 23*bis*(1), 42 and 28 of the Regulations of the Court to file with the Chamber no later than 7 October 2013, a table setting out:

¹ Appeals Chamber, Judgment on the appeal of Mr Abdallah banda Abakaer Nourain and Mr Saleh Mohammed Jerbo Jamus against the decision of trial Chamber IV of 23 January entitled “Decision on the Defence’s Request for disclosure of Documents in the Possession of the Office of the Prosecutor”, 28 August 2013, ICC-02/05-03/09-501, page 3.

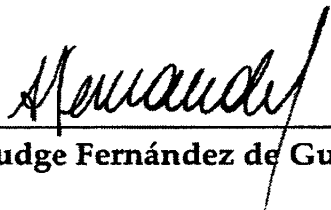
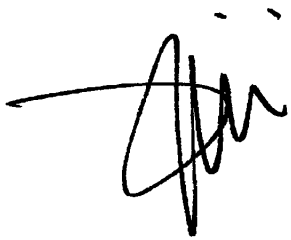
- i. the documents and other objects in the *Al Bashir* Material² not included under (a) above, which contain information sought by the defence, identifying such information by means of verbatim quotations, summaries or appropriate accompanying explanations;
- ii. whether the defence has received relevant documents containing the information sought and if so:
 - a. identify the documents; and
 - b. identify the relevant information by way of verbatim quotations, summaries or appropriate accompanying explanations;
- iii. the level of classification of each documents; and
- iv. whether protective measures shall be applied to any of these documents before effecting disclosure.

² The “*Al Bashir* Material” stands for documents that were confidentially submitted by the prosecution in support of its application for a warrant of arrest against Omar Hassan Ahmad Al Bashir in the situation in Darfur.

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



Judge Joyce Aluoch


Judge Fernández de Gurmendi
Judge Chile Eboe-Osuji

Dated this 25 September 2013

At The Hague, The Netherlands