

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 6 March 2012

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Silvia Fernández de Gurmendi

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.* ABDALLAH BANDA ABAKAER NOURAIN
AND SALEH MOHAMMED JERBO JAMUS**

Public

Decision on the “Requête aux fins d’être autorisés à soumettre un Addendum”

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 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

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber IV (“Chamber”) of the International Criminal Court (“ICC”) acting pursuant to Regulations 23(1)(d) and 24(5) of the Regulations of the Court (“Regulations”) issues the following Decision on the “Requête aux fins d’être autorisés à soumettre un Addendum”.

1. On 6 and 18 January 2012, the defence for Messrs Abdallah Banda Abakaer Nourain and Saleh Mohamed Jerbo Jamus (“defence”) filed the “Defence Request for a Temporary Stay of Proceedings”¹ and the “Defence Request for Oral Hearing”² respectively (together “defence Requests”).
2. On 30 January 2012, both the Office of the Prosecutor (“prosecution”)³ and the legal representatives for victims (“legal representatives”)⁴ filed their respective responses to the defence Requests.
3. On the same day, the Registry filed the “Report of the Registrar on the Execution of the Decision ICC-02/05-03/09-268-Red” (“Report”),⁵ informing the Chamber that, following the Chamber’s request for cooperation to the African Union (“AU”) on 21 December 2011, the AU Commission was “unable to reply [to it] due to the preparation of and the ongoing elections at the African Union Commission”.⁶

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

² Defence Request for Oral Hearing, 18 January 2012, ICC-02/05-03/09-280.

³ Prosecution’s Response to the “Defence Request for a Temporary Stay of Proceedings” and to the “Defence Request for an Oral Hearing”, 30 January 2012, ICC-02/05-03/09-286-Conf and Public Redacted Version of “Prosecution’s Response to the “Defence Request for a Temporary Stay of Proceedings” and to the “Defence Request for an Oral Hearing””, filed on 30 January 2012, 1 February 2012, ICC-02/05-03/09-286-Red.

⁴ Observations en réponse aux requêtes d’arrêt temporaire des procédures et une audition orale, 30 January 2012, ICC-02/05-03/09-285.

⁵ Report of the Registrar on the Execution of the Decision ICC-02/05-03/09-268-Red, 30 January 2012, 02/05-03/09-284.

⁶ 02/05-03/09-284, page 4, paragraph 2.

4. On 2 February 2012, the legal representatives subsequently filed the « Requête aux fins d'être autorisés à soumettre un Addendum » ("Application"),⁷ to which neither party responded. The legal representatives request leave to file an *addendum* to their response to the defence Requests in order, *inter alia*, to provide the Chamber with the victims' views on the impact of the AU response on the Chamber's determination on the defence Requests. The legal representatives also request authorisation to respond to the prosecution's response to the defence Requests ("prosecution Response"), which was notified to them on 1 February 2012.⁸

5. The Chamber first notes that no provision under the Statute foresees the filing of an *addendum* to a response. Indeed, no legal basis has been provided to the Chamber in support of the legal representatives' Application. The Chamber emphasizes that, pursuant to Regulation 23(1)(d) of the Regulations of the Court ("Regulations"), any document filed with the Chamber should contain "[a]ll relevant legal and factual issues, including details of the articles, rules, regulations or other applicable law relied upon."

6. Second, the Chamber recalls that a reply to a response may be filed only with the Chamber's leave in accordance with Regulation 24(5) of the Regulations. Therefore, had the legal representatives wished to file a reply to the prosecution Response, they should have requested leave to do so. In any event, as the information contained in the Registry's Report is only part of the documents to be relied upon in the Chamber's determination on the defence Requests and given the extensive scope of the filings made by the parties and participants on the defence Requests, the Chamber finds any additional submissions on the Registry's Report and the prosecution Response unnecessary.

⁷ Requête aux fins d'être autorisés à soumettre un Addendum, 2 February 2012, ICC-02/05-03/09-287.

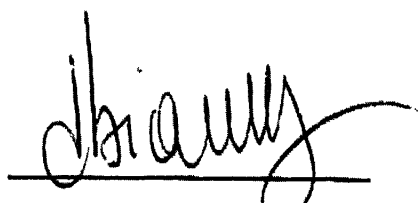
⁸ ICC-02/05-03/09-287, paragraph 9.

7. In these circumstances, the Chamber rejects the legal representatives' Application to file an *addendum*.

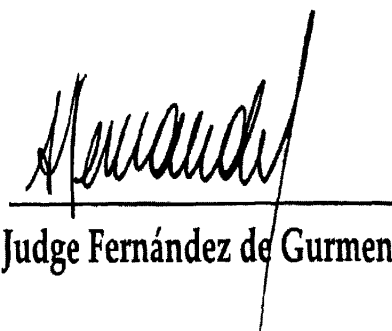
Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch



Judge Fatoumata Dembele Diarra



Judge Fernández de Gurmendi

Dated this 6 March 2012

At The Hague, The Netherlands