



Original: English

No.: ICC--02/05-03/09
Date: 12 November, 2010

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Sylvia Steiner
Judge Sanji Mmasenono Monageng

SITUATION IN DARFUR, SUDAN

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

Public Document

Legal Representative's Observation on the Joint Submission by the Office of the
Prosecutor and the Defence as to Agreed Facts and Submissions Regarding the
Modalities for the Conduct of the Confirmation Hearing

Source: Legal Representative of Victims a/0535/09, a/0537/09 to a/0542/09, a/0544/09
to a/0551/09, and a/0557/09 to a/0562/09

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Mr Essa Faal, Senior Trial Lawyer

Counsel for the Defence

Mr Karim Khan

Legal Representatives of the Victims

[1 name per team maximum]

Legal Representatives of the Applicants

Brahima Kone
Helene Cisse
Mr Akin Akinbote
Colonel Frank Adaka
Sir Geoffrey Nice
Mr Rodney Dixon

Unrepresented Victims

**Unrepresented Applicants
(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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 29th October, 2010, Pre-Trial Chamber 1 issued a decision granting the status of victims to 87 applicants, including, victims a/0535/09, a/0537/09 to a/0542/09, a/0544/09 to a/0551/09, and a/0557/09 to a/0562/09.
2. The Chamber also ordered, inter alia, as follows:-
 - i. The Registry to notify the victims authorize to participate in the proceedings of all public decisions and filings, effective as of the dated of the said decision.
 - ii. The Legal representatives of victims to file not later than 12 November 2010 any observations they wish to submit to the Chamber with respect to the "Joint Application by the Office of the Prosecutor and the Defence as to Agreed Facts and Submissions Regarding Modalities for the Conduct of the Confirmation Hearing".
3. **Observation**
 - i. It is observed that the Public Redacted Version of the Charges filed before the Chamber by the Prosecutor was only notified by email to the Legal Representatives of victims on 11 October, 2010, pursuant to the order of the Chamber made in its decision of 29 October, 2010 and that the said document was opened and read on 12 October, 2010.
 - ii. The Office of the Prosecutor and the Defence, in paragraph 11 of their "Joint Submissions acknowledged the rights of the victims to participate in the Confirmation Hearing pursuant to Article 68(3) of the Rome Statute.
 - iii. It is observed that the Prosecutor and the Defence joint submission that Victims' participation be limited to written observation is inconsistent with Article 68(3) and will not meet the ends of justice regarding the right of victims to participate in the Confirmation Hearing.

4. Submission

It is respectfully submitted that the ends of justice will not be met if the victims are limited to written observation or submissions as jointly submitted by the Prosecutor and the Defence.

It is further submitted that the ends of justice will be met if the victims are allowed to make oral and or written observation or submissions as the Chamber may deem it fit in the circumstance.

Respectfully Submitted



Akin Akinbote
on behalf of

Victims /0535/09, a/0537/09 to a/0542/09, a/0544/09 to a/0551/09, and a/0557/09 to a/0562/09

Dated this 12th day of Novemer, 2010

At Lagos, Nigeria

At [place, country]