Cour
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International
Criminal
Court

Original: **English**

No.: **ICC-02/05-03/09**
Date of redaction: 30 Oct. 2026
Date of original: 23 Oct. 2009

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, SUDAN

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

Public
Public redacted version of "Report of the Registrar on execution of Second Decision on the Prosecutor's Application under Article 58", 23 October 2009, ICC-02/05-03/09-6-US

Source: **the Registrar**

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

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

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
Mr Osvaldo Zavala Giler

Deputy Registrar

Other

The President

The Registrar of the International Criminal Court ("the Court"):

NOTING the Second Decision on the Prosecutor's Application under Article 58 issued on 27 August 2009 ("the Decision")[1];

NOTING the Summons to appear for Saleh Mohammed Jerbo Jamus issued on 28 August 2009[2];

NOTING the Summons to appear for Abdallah Banda Abakaer Nourain issued on 28 August 2009[3],

NOTING the hearing held on 1 September 2009[4];

NOTING Article 93 (1) (d) of the Rome Statute, Regulation 31 (3) of the Regulations of the Court, Regulation 24 *bis* of the Regulations of the Registry;

CONSIDERING that the Chamber ordered "the Registrar to, as soon as practicable and in coordination with the Prosecutor, serve the above-mentioned summons on Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus as required by article 58(7) of the Statute and in accordance with regulation 31(3)(b) of the Regulations of the Court"; [5]

CONSIDERING that the Chamber ordered "the Registrar, as appropriate, to prepare and to transmit to any other State any request for cooperation which may be necessary to facilitate the voluntary appearances of Abdallah Banda Abakaer

[1] ICC-02/05-03/09-1-US.
[2] ICC-02/05-03/09-2-US.
[3] ICC-02/05-03/09-3-US.
[4] ICC-02/05-03/09-T-1.
[5] ICC-02/05-03/09-1-US, page 20.

Nourain and Saleh Mohammed Jerbo Jamus before the Court pursuant to articles 87 and 93 of the Statute";[6]

CONSIDERING that the Chamber also ordered " the Prosecutor to transmit to the Chamber and to the Registry, as far as its confidentiality obligations allow, all information available to the Prosecutor that may assist in averting any risks to victims or witnesses associated with the transmission of any of the above-mentioned cooperation requests"[7];

CONSIDERING that in the hearing dated 1 September 2009, the Single Judge clarified that "[...] that the Registrar, as neutral organ of the Court, is exclusively in charge of the execution of the orders, but it also means that the Prosecutor has to actively coordinate with the Registrar and give him all possible support, especially in terms of knowledge of information"[8].

SUBMITS the following report:

1. On 3 September 2009, the Registry and the Office of the Prosecutor met in order to discuss the implementation of the Decision by the Chamber.

Legal assistance

2. As indicated in the hearing dated 1 September[9], the Registry was of the opinion that it was necessary to secure legal assistance for the persons subject to the summons to appear as soon as possible in order for the said persons to have a full understanding of the consequences of such orders by the Chamber.

[6] ICC-02/05-03/09-1-US, page 22.
[7] ICC-02/05-03/09-1-US, page 22.
[8] ICC-02/05-03/09-T-1, page 3.
[9] ICC-02/05-03/09-T-1, page 6.

3. It was decided that the Registry would send to the Office of the Prosecutor resumes of legal counsels speaking Arabic for transmission to the intermediaries with whom the Office of the Prosecutor is in contact. These intermediaries were to transmit the said resumes to the persons subject to the summons to appear.

4. The Registry sent four resumes on 4 September 2009. Since then, the Office of the Prosecutor regularly informed the Registry, upon its numerous requests[10], that it had difficulties getting in contact with the intermediaries and that the choice of the counsel was in any event to take time.

Notification of the summons to appear

5. With respect to the obligation of the Registry to serve the summons to appear, it must be noted that to this date, the Registry does not have any indication on the location where the persons are. Such information is essential to determine whether requests for cooperation should be transmitted in order to facilitate the notification of the summons to appear or the appearance of the two persons before the Court.

6. Moreover, the Registry was not provided by the Prosecution with the names of the intermediaries. As a result, the Registry has no information on whether the two persons are aware of the content of the summons to appear.

7. In any event, no official notification in accordance with regulation 35 (3) of the Regulations of the Court has taken place.

[10] E-mails dated 4 September, 10 September, 18 September, 30 September, 2 October and related phone conversations.

8. The only information is possession of the Registry is that [redacted]

9. Under these circumstances, the Registry is not in a position to implement the decision of the Judges.

Implications with the Host State

10. In addition, the Registrar would like to draw the attention of the Chamber on the fact that, at this stage, the Registry [redacted][1] and [redacted][2] with regard to the appearance of persons subject to summons to appear before the Court. [redacted], she cannot guarantee that the two persons will be able to appear before the Chamber on 17 November 2009.

INFORMS the Chamber that the Registry is not in a position to implement the Decision of the Judges.

Marc Dubuisson, Director, Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 30 October 2026

At The Hague, the Netherlands

[11] ICC-02/05-0209-142-Conf-Exp, Anx2 dated 9 October 2009 and ICC-02/05-0209-167-Conf-Exp, Anx1 dated 14 October 2009.
[12] ICC-02/05-214-Conf-Exp-Anx1 dated 17 April 2009.