

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date of redaction: 30 Oct. 2026

Date of original: 22 Jan. 2010

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, SUDAN

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

Public

Public redacted version of "Registry Information report on the execution of Second Decision on the Prosecutor's application under Article 58", 22 January 2010, ICC-02/05-03/09-16-US-Exp

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

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Second Decision on the Prosecutor's Application under Article 58” dated 27 August 2009;¹

NOTING the Decision postponing the hearing of first appearance dated 12 November 2009;²

NOTING the different reports of the Office of the Prosecutor dated 23 December 2009, 5 January 2010, 11 January 2010 and 19 January 2010;³

NOTING articles 58 (7) (d) and 67 of the Rome Statute, regulations 24 *bis* , 31 (3) (b) and 73 of the Regulations of the Court;

SUBMITS the present document as under seal *ex parte* available only to the Office of the Prosecutor pending a decision of the Chamber taking into consideration that the issue of the access to the case file to be granted to the Defence counsels is raised in the present document;

SUBMITS the following information:

Appointment of duty counsels

1. On 4 September 2009, the Registry provided the Office of the Prosecutor with the resume of four Arabic speaking counsels for the purpose of transmission to the persons subject to a summons to appear.

¹ ICC-02/05-03/09-1-US

² ICC-02/05-03/09-10-US

³ ICC-02/05-03/09-12-US; ICC-02/05-03/09-13-US, ICC-02/05-03/09-14-US and ICC-02/05-03/09-1-US.

2. On 5 November 2009, the Registry sent all requested administrative documents for appointment of counsels to the Office of the Prosecutor.
3. On 9 November 2009, the Registry was informed that the intermediaries had acknowledged receipt of the resume and that the latter had shared the resume with the two individuals concerned.
4. On 5 January 2010, the Registry was informed that the intermediary of Abdallah Banda had not been able to discuss the issue of the choice of counsel with him. As a result, the Prosecution and the Registry discussed the modalities of the appointment of a duty counsel for both individuals.
5. Later that week, one of the two intermediaries of Mr. Banda contacted a Registry representative to request that the Registry delay the appointment of duty counsel for Mr. Banda as the intermediary and Mr. Banda were about to meet to discuss this issue.
6. On 11 January, the OTP made a formal request for appointment of duty counsels as the intermediary transmitted Mr. Banda's agreement on the said appointment.
7. On 15 January 2009, two duty counsels were appointed. Due to linguistics issues, the Registry decided to revoke their appointment and to proceed to appoint counsels with more suitable linguistics combinations.
8. As a result [REDACTED] shall represent Mr Banda and [REDACTED] shall represent Mr. Jerbo as of today. The Registry is finalizing all formalities and taking all necessary action to allow their contact with the clients and their access to the file.

Operational developments

a) Transfer to The Hague

9. Since the Decision to postpone the hearing, the Registry has attempted to obtain information from the Office of the Prosecutor in order to start making the operational arrangements conducive to the appearance of the two persons

before the Court. The Office of The Prosecutor indicated that it did not have more information than the information filed before the Chamber.

10. Further to the OTP's filing of 5 January 2010, the Registry immediately started to work on the assumption that the two individuals would depart from [REDACTED], should they obtain travel documents.
11. On 19 January, the Registry met with the OTP in order to facilitate the appearance of the two individuals before the Court on the basis of the new assumption that at least one individual would leave from [REDACTED].

- *Mr. Banda*

12. As indicated by the Office of the Prosecutor in its filing dated 19 January 2010, Mr. Banda would first [REDACTED] and would then [REDACTED] to [REDACTED]. He would then [REDACTED].
13. In light of this new itinerary, it was agreed that Mr. Banda is to be placed under the responsibility of the Registry as of his arrival in [REDACTED]. The Registry is to assist him in meeting with his lawyer before departure from [REDACTED] to the Netherlands. The Registry is also to facilitate departure of the individual from [REDACTED] to the Netherlands.
14. It must be noted that the Registry has had no direct contact with Mr. Banda. In addition, Mr. Banda did not appoint a counsel himself. As a result and to ensure that Mr. Banda is fully informed of his rights and of the consequences of his voluntary appearance before the Court, the Registry is considering proceeding with the notification in [REDACTED].
15. The Registry works on the assumption that OTP will succeed in bringing Mr. Banda to [REDACTED] with suitable travel documents and sufficiently on time for the Registry to obtain the necessary documents that will enable him to finish his journey.

- Mr. Jerbo

16. Regarding Mr. Jerbo, the Registry is exploring together with the Office of the Prosecutor the possibility to organize a meeting with his lawyer, if requested, ■■■■■. On the basis of the information provided by the Office of the Prosecutor to the Registry, his voluntary appearance seems more complex and uncertain.

17. It indeed appears to this date that the appearance of Mr. Jerbo is conditioned by the possibility for him to ■■■■■.

18. The Registry's understanding from the OTP is that Mr. Jerbo is to ■■■■■. In this case, the Registry would put in place the same operational arrangements in ■■■■■ as it has for Mr. Banda. Should Mr. Jerbo follow another route, the time frame available to accommodate such change would be very limited.

b) Arrangements in The Hague

19. The Registry also worked in close cooperation with the authorities of the Host State, ■■■■■.

c) Linguistics challenges

20. The Registry is taking special measures in view of the information provided by the OTP on 21 January regarding the fact that Mr. Banda wishes to speak Zaghawa, and that he cannot read.

21. Most likely Mr. Jerbo will be in the same situation.

22. The Registry is of the view that should the suspects choose Zaghawa as the language they fully understand and speak, it may not be in a position to provide interpretation in compliance with Article 67 of the Rome Statute. Given the rare nature of the Zaghawa language, it has not been possible to

date, to find interpreters who are fully competent and proficient to provide simultaneous interpretation into Zaghawa to English and/or French and vice-versa.

23. In preparation for this eventuality, the Registry has endeavoured to find and evaluate potential Zaghawa candidates to be trained by STIC. It was concluded, following a short evaluation that the candidates, that should the need for competent Zaghawa interpreters arise at a potential confirmation of charges hearing, the candidates would require further training to be competent to provide simultaneous interpretation.

24. Nonetheless, during the assessment, it was determined that the Registry would be in a position to provide *consecutive* interpretation for the first appearance only, should the need arise.

d) Access to the case file

25. The Registry informs the Chamber that it intends to give access to the newly appointed lawyers to the entire case file except the documents classified *ex parte*⁴.

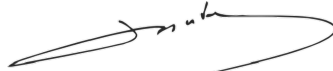
26. In view of remaining time frame, the Registry is concerned by the possibility that only one person may appear before the Judges on 3 February 2010. Should this occur, the Registry requires guidance on whether to communicate the Decision and any other registered documents if necessary as they contain the names of the two individuals.

27. This concern should also be taken into consideration should the Chamber decide to lift the seals when one of the individual arrives in the Netherlands to appear before the Judges.

⁴ ICC-02/05-03/09-5-US-Exp

RESPECTFULLY REQUESTS guidance on the following:

- under which modalities should the Defence duty counsels be given access to the case file.



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

Dated this 30 October 2026

At The Hague, The Netherlands.