Cour
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International
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Court

Original: **English**

No.: **ICC-02/05-03/09**
Date of redaction: 30 Oct. 2026
Date of original: 27 Apr. 2011

TRIAL CHAMBER IV

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

SITUATION IN DARFUR, SUDAN

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

Public
with confidential annex
Public redacted version of "Second Report of the Registrar in response to the questions in the confidential agenda of the status conference scheduled for 19 April 2011", 14 April 2011, ICC-02/05-03/09-130-Conf

Source: **Registry**

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

Counsel 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 *"Order scheduling a status conference"* issued by Trial Chamber IV (the "Chamber") on 30 March 2011;[1]

NOTING the *"Agenda of the status conference scheduled for 19 April 2011"* (the "Agenda") issued by the Chamber on 12 April 2011;[2]

NOTING articles 63(1) and 87 of the Rome Statue, rule 176 of the Rules of Procedure and Evidence, regulation 23 *bis* of the Regulations of the Court, and the Headquarters Agreement between the International Criminal Court and the Host State;

CONSIDERING that on 4 April 2011, the Chamber notified a preliminary agenda of the status conference scheduled for 19 April 2011 to the parties, participants and the Registry and instructed the parties, participants and the Registry to file written submissions in response to the questions which appear in the agenda by 16h00 on 14 April 2011;[3]

CONSIDERING that only item A in the confidential annex to the Agenda appears in the preliminary agenda notified to the parties, participants and the Registry on 4 April 2011 and thus the Registry will submit its observations in this report only on the item A; however, the Registry is ready to reply to the Chamber's questions regarding item B in the confidential annex to the Agenda during the status conference scheduled for 19 April 2011;

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[1] ICC-02/05-03/09-127.

[2] ICC-02/05-03/09-128 and ICC-02/05-03/09-128-Conf-Anx.

[3] Email communicated by the Legal Advisor to the Trial Division on 4 April 2011 to the parties, participants and the Registry and the preliminary agenda of the status conference scheduled for 19 April 2011 to the parties, participants and the Registry.

REPORTS to the Chamber as follows on the measures or steps which may need to be taken to facilitate the appearance of the accused[4]:

Issues with regard to the [redacted] authorities

1. [redacted]

2. [redacted]

3. [redacted]

Issues with regard to the authorities of the Host State

4. It must be stressed at the outset that although the Host State has always cooperated with the Court with regard to the voluntary appearance of persons, it has been so on an *ad hoc* basis.

5. The position of the Host State in respect of the conditions to be applied in this case is set out in a note verbale dated 22 January 2010[5] addressed to the Court in the context of the initial appearance of Mr. Banda and Jerbo's initial appearance.

[4] Item A in the confidential annex to the Agenda: A. Measures to be taken to facilitate the appearance of the accused.

[5] Annex, Notes verbales transmitted by the Dutch authorities to the Registry respectively on 22 January 2010 and 14 June 2010.

Broadly, the Host State indicated that "[redacted]".

6. As a result, Mr Banda and Mr. Jerbo, [redacted].

7. [redacted].

8. It will be the first time, the issue of the voluntary appearance of accused persons at the trial stage will arise. Should the Chamber accept that the two accused persons appear voluntarily, the Registry submits that it is important to associate the Host State at an early stage [redacted]. Possible conditions that the Chamber may wish to consider are [redacted].

9. At the Chamber's direction, the Registry is ready to discuss possible conditions with the Host State for the voluntary appearance at trial of Mr. Benda and Mr. Jerbo. The Registry draws the attention of the Chamber on the fact that at the occasion of the initial appearance hearing, Pre-Trial Chamber I had ordered Mr. Banda and Mr. Jerbo "to comply, in any case, with all the instructions of the Registrar for the purposes of [their] appearance before the Court"[6]. [redacted]

[6] ICC-02/05-03/09-2 and ICC-02/05-03/09-3 dated 27 August 2009.

[redacted]

Other issues

10. In order to facilitate the travel to and stay in the Netherlands of the two accused persons, the Registry will need to secure the cooperation of one or more State(s) of transit as [redacted] will most likely be requested to assist for this purpose if the two accused persons depart from [redacted]

11. The Registry will arrange the travel of the two accused persons to The Hague. A delegation of the Registry will accompany them in order to ensure a smooth journey.

12. [redacted]. In this event, [redacted].

13. [redacted]

Position of the Registry

14. In conclusion, once the Chamber issues a decision on the conditions of appearance and should the Registry be asked to facilitate the said appearances, the Registry will start consulting with the Host State and [redacted] authorities. Only after the consultations take place, the Registry will be able to advice the Chamber on a definitive course of action.

15. The Registry respectfully submits that should the Chamber accept that Mr. Banda and Mr. Jerbo appear voluntarily, the Host State should be provided with an

opportunity to submit to the Chamber's consideration the conditions which they feel will enable them to [redacted].

SUBMITS the present document and its annex *confidential* to be in line with the confidentiality level of the agenda issued in the confidential annex to the "*Agenda of the status conference scheduled for 19 April 2011*" issued by the Chamber on 12 April 2011.

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

Dated this 30 October 2026

At The Hague, The Netherlands