

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 7 May 2012

**TRIAL CHAMBER IV**

**Before:** Judge Joyce Aluoch, Presiding Judge  
Judge Silvia Fernández de Gurmendi  
Judge Chile Eboe-Osuji

**SITUATION IN DARFUR, SUDAN**

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

**Public**  
**With 1 Public annex and 4 Confidential annexes, *EX PARTE* only available to the  
Registry**

**Second report to the Trial Chamber on applications to participate in the  
proceedings**

**Source: Registry**

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  
Ms Fatou Bensouda

**Counsel for the Defence**

Mr Karim A.A. Khan  
Mr. Nicholas Koumjian

**Legal Representatives of the Victims**

Ms Hélène Cissé  
Mr. Jens Dieckmann

**Legal Representatives of the Applicants**

Sir Geoffrey Nice  
Mr Rodney Dixon

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

Mr Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Fiona McKay

**Other**

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

NOTING Trial Chamber IV’s (“Chamber”) decision on six applications to participate and its corrigendum issued respectively on 17 and 28 October 2011 (“Decision on applications”), setting 13 January 2012 as the final deadline for the submission to the Victims Participation and Reparations Section (“VPRS”) of new victims’ applications for participation in the case *The Prosecutor v. Abdallah Abakaer Nourain and Saleh Mohammed Jerbo Jamus* (“Banda and Jerbo case”);<sup>1</sup>

NOTING the Chamber’s decisions, conveyed by emails on 11 January 2012<sup>2</sup> and 25 January 2012,<sup>3</sup> granting the requests of, respectively, the OPCV<sup>4</sup> and the legal representatives of applicant a/6000/11<sup>5</sup> to extend the deadline until 29 February 2012 to submit to the VPRS the complete applications of their respective clients;

NOTING the Chamber’s decision of 29 March 2012 granting the request<sup>6</sup> of the legal representatives of applicant a/6000/11 to have the identification document of the applicant submitted to the VPRS after the time limit of 29 February 2012 transmitted to the Chamber as part of application a/6000/11;<sup>7</sup>

NOTING article 68(3) of the Rome Statute, rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and regulations 23bis, 24bis and 86(5) of the Regulations of the Court (“Regulations”);

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<sup>1</sup> ICC-02/05-03/09-231-Corr.

<sup>2</sup> As referred to in ICC-02/05-03/09-314, footnote 5.

<sup>3</sup> As referred to in ICC-02/05-03/09-314, footnote 9.

<sup>4</sup> ICC-02/05-03/09-273-Red.

<sup>5</sup> ICC-02/05-03/09-283.

<sup>6</sup> The request to the Chamber was filed on 6 March 2012 (ICC-02/05-03/09-305-Conf-Exp), and its public redacted version was filed on 12 March 2012 (ICC-02/05-03/09-305-Red).

<sup>7</sup> ICC-02/05-03/09-314.

**CONSIDERING** that Annexes 2, 3, 4 and 5 to the current report are filed with the status “Confidential *ex parte*, only available to the Registry”, in order to sufficiently protect the identity of the applicants;

**CONSIDERING** that since the last report of the Registry on applications to participate in the proceedings of 16 September 2011,<sup>8</sup> the Registry has received supplementary information in relation to 13 applications which appear to be linked to the present case, as set out in the Decision on the Confirmation of Charges,<sup>9</sup> and which have been assessed by the Registry to be complete;

**TRANSMITS** to the Chamber the following report on 13 applications for participation in the proceedings.

#### **A. Overview of applications relating to the present case**

1. The report relates to 13 applications to participate in proceedings which have been filed with the Chamber. All are natural persons. The present report serves to transmit to the Chamber the reports which are required by regulation 86(5) of the Regulations.
2. Nine<sup>10</sup> of the applications to participate transmitted with the current report are applications which were previously rejected by Pre-Trial Chamber I in the case of

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<sup>8</sup> ICC-02/05-03/09-217.

<sup>9</sup> ICC-02/05-03/09-121-Corr-Red. These charges are violence to life under article 8(2)(c)(i) of the Statute, intentionally directing attacks against a peacekeeping mission under article 8(2)(e)(iii) of the Statute, and pillage under article 8(2)(e)(v) of the Statute.

<sup>10</sup> a/0742/09, a/0743/09, a/0745/09, a/0746/09, a/0750/09, a/0751/09, a/0752/09, a/0753/09 and a/0755/09. The Single Judge rejected these applications based on the fact that these applicants “*failed to sufficiently substantiate the existence of a relationship with the deceased peacekeeper of such a nature that would justify the applicants’ claim of emotional harm and/or loss of economic support resulting from the death of that person*” (ICC-02/05-02/09-255, para. 31).

*The Prosecutor v. Bahar Idriss Abu Garda* ("Abu Garda case").<sup>11</sup> The Registry is transmitting these applications to the Chamber in light of new information received.

3. On 23 February 2012, the VPRS was informed by the OPCV that it has not been in a position to complete the applications of two individuals applying for participation<sup>12</sup> within the extended deadline of 29 February 2012, and that it foresees that it might be able to complete these applications by the beginning of May 2012.<sup>13</sup> If this supplementary information is transmitted to the VPRS, the Registry will seek further guidance from the Chamber.
4. This report provides an overview of the 13 applications transmitted, while the following documents are provided as annexes:
  - Annex 1: Explanation of the content of the individual reports which constitute Annex 2. The Registry notes that this annex will not be provided to the Chamber in future transmissions of applications if there is no change;
  - Annex 2: Individual reports under regulation 86(5) of the Regulations, providing the Registry's initial assessment of each application (as explained in Annex 1).

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<sup>11</sup> ICC-02/05-02/09-255. Two additional applications (a/0744/09 and a/0747/09) which were also rejected by Pre-Trial Chamber I in the *Abu Garda* case are not submitted to the Chamber since it was reported that the applicants had died and their relatives (respectively, applicants a/0748/09 and a/0749/09) expressed their will to withdraw the applications (See annex 3). The application forms of a/0744/09 and a/0747/09 were however joined with the applications of, respectively, a/0748/09 and a/0749/09, for the Chamber's consideration, since the latter applicants asked to have the harms suffered by their deceased relatives taken into consideration with their own applications.

<sup>12</sup> This includes applicant a/0659/09, whose application to participate has not yet been transmitted to the Chamber because it is incomplete.

<sup>13</sup>. See annex 5.

- Annex 3: Memorandum of 23 February 2012 sent by the OPCV to the VPRS in relation to thirteen applications for participation in the proceedings mentioned in the present report, and its annex.
- Annex 4: Letter sent by Sir Geoffrey Nice and Mr. Rodney Dixon on 27 May 2011 in relation to one individual application.
- Annex 5: Email from Principal Counsel, OPCV, to Chief, VPRS.

## **B. Dual status applicants**

5. The Registry would like to draw to the Chamber's attention the fact that while processing the applications to participate, the VPRS is not aware whether any of the applicants who are the subject of this report would fall into this category.

## **C. Legal representation**

6. The Registry notes that one applicant dealt with in this report has indicated his wish to be represented by Ms. Hélène Cissé and Mr. Jens Dieckmann<sup>14</sup> and one applicant by Sir Geoffrey Nice QC and Mr. Rodney Dixon,<sup>15</sup> and that eleven applicants are represented by the OPCV.<sup>16</sup>
7. In accordance with the Chamber's instructions,<sup>17</sup> the Registry will appoint the common legal representatives to represent the applicants that will be authorised to participate in the case.

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<sup>14</sup> a/0660/09.

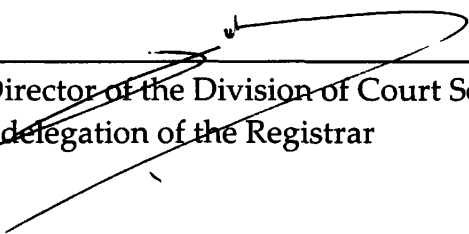
<sup>15</sup> a/6000/11.

<sup>16</sup> a/0742/09, a/0743/09, a/0745/09, a/0746/09, a/0748/09, a/0749/09, a/0750/09, a/0751/09, a/0752/09, a/0753/09 and a/0755/09. See also ICC-02/05-03/09-231-Corr, para. 28 and ICC-02/05-03/09-240.

<sup>17</sup> ICC-02/05-03/09-231-Corr, para. 27.

#### **D. Protection and transmission to the parties**

8. The Registry has prepared a redacted version of the 13 applications which are the subject of this report in compliance with the Chamber's guidelines on redactions,<sup>18</sup> and stands ready to transmit them to the parties in accordance with rule 89(1) of the Rules, should the Chamber so order.
9. At this time no further measure of protection appears to be necessary.

  
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Marc Dubuisson, Director of the Division of Court Services  
*as per delegation of the Registrar*

Dated this 7 May 2012  
At The Hague, The Netherlands

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<sup>18</sup> ICC-02/05-03/09-231-Corr, paras. 31 to 37.