

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

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

Date: 10 October 2012

**TRIAL CHAMBER IV**

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

**SITUATION IN THE DARFUR, SUDAN**

**IN THE CASE OF *THE PROSECUTOR***

*v.*

***ABDALLAH BANDA ABAKAER NOURAIN***

*&*

***SALEH MOHAMMED JERBO JAMUS***

**Public with Confidential Annex**

**Joint Prosecution and Defence Request for  
Redactions to Be Applied to Transcript ICC-02/05-03/09-T-18-CONF-EXP-ENG of  
11 July 2012**

**Sources:** Office of the Prosecutor  
Defence Team of Abdallah Banda Abakaer Nourain  
Defence Team of Saleh Mohammed Jerbo Jamus

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

**The Office of the Prosecutor**

Ms. Fatou Bensouda  
Mr. Adebowale Omofade

**Counsel for the Defence**

Mr. Karim A. A. Khan QC  
Mr. Nicholas Koumjian

**Legal Representatives of the Victims**

Ms. Helene Cisse  
Mr. Jens Dieckmann

**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**

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**REGISTRY**

**Registrar**

Ms. Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

Ms. Maria Luisa Martinod-Jacome

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. Pursuant to the Trial Chamber's instruction of 5 October 2012,<sup>1</sup> the Office of the Prosecutor ("Prosecution") and the Defence for Mr. Abdallah Banda Abakaer Nourain and Mr. Saleh Mohammed Jerbo Jamus ("Defence") hereby respectfully submit their request for redactions to be applied to transcript ICC-02/05-03/09-T-18-CONF-EXP-ENG ("Transcript T-18" or "Transcript"). The Transcript with the requested redactions applied is provided in the confidential annex attached to this filing.

## II. Background

2. On 11 July 2012, between 3.06 pm and 3.58 pm, the Trial Chamber held a confidential status conference which was conducted *ex parte* with the Defence, the Prosecution and Registry only.<sup>2</sup>
3. On 5 October 2012, the Trial Chamber instructed the Prosecution and the Defence to propose redactions to Transcript T-18 so that it might be referred to in the proceedings and to file a public redacted version of the Transcript no later than 16h00 on 10 October 2012.<sup>3</sup>

## III. Prosecution Submissions

4. The Prosecution has sought redactions to all information relating to its ongoing discussions with third parties, concerning the provision of

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<sup>1</sup> Email from the Legal Officer of Trial Chamber IV titled "Redacted Versions of Transcripts ICC-02/05-03/09-T-18-Conf-Exp to ICC-02/05-03/09-T-20-Conf-Exp", dated 5 October 2012 and sent at 16.21 hours ("5 October 2012 Email").

<sup>2</sup> The transcript of this status conference is ICC-02/05-03/09-T-18-CONF-EXP-ENG.

<sup>3</sup> See 5 October 2012 Email.

information<sup>4</sup>, as well as the status of those discussions.<sup>5</sup> The Prosecution has also sought redactions to the names and official positions of individuals it is liaising with within these organisations,<sup>6</sup> and to information that may reveal the identity of such organisations.<sup>7</sup> The Prosecution has not made its communication with these organisations public because it does not have their consent to do so. Revealing such information publicly may therefore impede the ongoing discussions.

#### **IV. Defence Submissions**

5. The Defence submit that the first category of proposed redactions to Transcript T-18<sup>8</sup> is justified because they concern information regarding the Defence investigation, which is not public. There is nothing in the Rome Statute or in the Rules of Procedure and Evidence which requires the Defence to disclose such information to the public.
6. Furthermore, the Defence have also applied a second category of redactions<sup>9</sup> to information regarding responses to their requests for cooperation obtained from various entities, as well as regarding the state of discussions with some of these entities, where such information is not already on public record.

#### **Relief Requested**

For the reasons set out above, the Prosecution and the Defence respectfully request that the Trial Chamber apply redactions to Transcript T-18 in accordance with the confidential annex to the present filing.

<sup>4</sup> E.g. ICC-02/05-03/09-T-18-CONF-EXP-ENG, page 2 lines 14-18, page 4 lines 24-24, page 5 lines 1-3

<sup>5</sup> E.g. ICC-02/05-03/09-T-18-CONF-EXP-ENG, page 3 lines 8-13, page 5 lines 3-6, page 22 lines 3-5

<sup>6</sup> E.g. ICC-02/05-03/09-T-18-CONF-EXP-ENG, page 3 line 7

<sup>7</sup> E.g. ICC-02/05-03/09-T-18-CONF-EXP-ENG, page 2 line 10, 18, page 23 line 5

<sup>8</sup> Namely, page 5, line 23, to page 6, line 3; page 9, lines 8 to 11; and page 16, lines 22 to 23.

<sup>9</sup> Namely, page 13, line 20, to page 14, line 1; page 14, line 3; and page 14, lines 6 to 10.

Respectfully Submitted,



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**Fatou Bensouda**

Prosecutor

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**Mr. Karim A. A. Khan QC**

Lead Counsel

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**Mr. Nicholas Koumjian**

Co-Lead Counsel

for Abdallah Banda Abakaer Nourain and Saleh  
Mohammed Jerbo Jamus

Dated this 10<sup>th</sup> Day of October 2012

At The Hague, The Netherlands / At Nairobi / At The Hague, The Netherlands