



Original: English

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

Date: 30 August 2013

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 Redacted Version of
"Prosecution's Update on Cooperation Issues"
filed on 2 May 2013**

Sources: Office of the Prosecutor

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

Ms. Fatou Bensouda, Prosecutor
 Mr. James Stewart, Deputy Prosecutor
 Mr. Ade Omofade, Trial Lawyer

Counsel for the Defence

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

Legal Representatives of the Victims

Ms. Hélène Cissé
 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****REGISTRY****Registrar**

Mr. Herman von Hebel

Counsel Support Section**Deputy Registrar**

Mr. Didier Preira

Victims and Witnesses Unit**Detention Section****Victims Participation and Reparations
Section****Other**

I. Introduction

1. [REDACTED],¹[REDACTED],² the Prosecution informed the Chamber of its continued efforts to obtain materials that could be of relevance to the present case from certain organisations. The Prosecution provides this update regarding two documents that were requested from [REDACTED].

II. Background and Prosecution's Submissions

2. [REDACTED]. On 27 August 2012, the Prosecution filed an update with the Trial Chamber on its ongoing consultations concerning the Article 54(3)(e) documents and application for protective measures.³ The Prosecution hereby updates the Chamber on the documents it recently received from the UN.
3. On 20 September 2011, the OTP made a request to the UN for access to certain materials [REDACTED]. This was to enable the Prosecution to identify any materials of a potentially exculpatory nature or information that could be material to the preparation of the defence.⁴ On 26 April 2012, the UN responded. It noted that the documents collected by [REDACTED], which appear to be of relevance, did not originate from [REDACTED] but either from [REDACTED]. It noted therefore that [REDACTED] would seek permission of the relevant [REDACTED] and direct a similar request to [REDACTED] in relation to documents that originated from [REDACTED] or which were produced [REDACTED].⁵

¹ [REDACTED].

² [REDACTED].

³ [REDACTED].

⁴ [REDACTED].

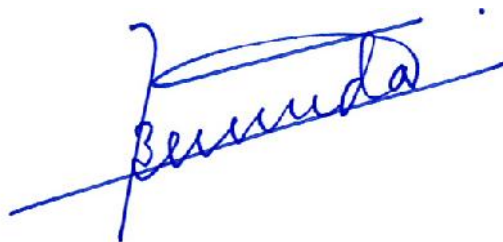
⁵ [REDACTED].

4. On 24 August 2012, the United Nations Office of Legal Affairs (“OLA”) communicated by email that the [REDACTED] had been able to identify a number of documents that originated from various offices, but because they were shared with [REDACTED] under conditions of confidentiality, it was necessary to request the consent of the relevant [REDACTED] before they could be disclosed.
5. Specifically, [REDACTED] wrote to [REDACTED] regarding two reports relating to the circumstances surrounding the attack on MGS Haskanita dated October 2007. [REDACTED] also requested permission from the [REDACTED] to disclose [REDACTED]. The OLA understood that the [REDACTED] had referred the matter to the [REDACTED] and was awaiting a response. Finally, the [REDACTED] identified two further documents that originated from the [REDACTED]. [REDACTED].
6. On 30 November 2012, the OTP wrote to the [REDACTED] to follow up these two documents and on 18 April 2013, the [REDACTED] responded. It confirmed that, subject to the condition that certain protective measures are imposed related to their use in court, the UN is prepared to consent to the disclosure of narrative summaries of the two documents to the Defence. It also provided the narrative summaries of the documents.
7. The Prosecution considers that these summaries indeed contain material that is potentially exculpatory and/or material to the preparation of the Defence. [REDACTED].
8. As the [REDACTED] letter sets out, the disclosure of the narrative summaries is subject to the following conditions:

- i. [REDACTED]
 - ii. [REDACTED]
 - iii. [REDACTED]
 - iv. [REDACTED]
 - v. [REDACTED]
 - vi. [REDACTED]
 - vii. [REDACTED]
 - viii. [REDACTED]
 - ix. [REDACTED]
9. The Prosecution requests the Chamber to authorise the protective measures [REDACTED] prior to disclosure of the narrative summaries to the Defence.

III. Request for receipt of filing as Confidential *Ex Parte*

10. The Prosecution submits that the classification of the present filing and its annexes as “Confidential – *Ex Parte* – Prosecution Only” is necessary as they relate to confidential communications with information providers as well as the identity of those providers. The Prosecution will file a Public Redacted Version of this filing.



Fatou Bensouda
Prosecutor

Dated this 30th day of August 2013

At The Hague, The Netherlands