



**DISCIPLINARY BOARD OF THE INTERNATIONAL CRIMINAL COURT**

**Original: English**

**Reference: SDO-2023-86-DB Decision**

**Date: 27<sup>th</sup> of September 2023**

**Before:** **Mr. Vincent Asselineau**, Chairperson and Presiding member  
**Mr. Philippe Larochelle**, permanent member  
**Mr. Hossam ElDeeb**, ad hoc member

**Case: Disciplinary complaint against Mr Nasser Mohamed Amin Abdalla**

**Public Document**

Decision of the Disciplinary Board for counsel

Counsel for Mr Nasser Mohamed Amin Abdalla:  
Mr. Anand Shah

Commissioner:  
Ms. Diane Turner, K.C.

## **I. FACTUAL BASIS OF THE COMPLAINT**

1. On 29 March 2016, Mr. Nasser Mohamed Amin Abdalla submitted his application to the List of counsel to the Registry. He was admitted to the Court's List of counsel on 17 January 2017.
2. On 19 March 2021, Mr. Nasser Mohamed Amin Abdalla was appointed by Pre-Trial Chamber II as legal representative of victims in case ICC-02/05-01/20 involving the situation in Darfur.
3. On 19 October 2021, Trial Chamber I appointed Mr. Nasser Mohamed Amin Abdalla together with Ms. Natalie von Wistinghausen as common legal representatives for victims in case ICC-02/05-01/20 to represent the victims throughout the trial proceedings.
4. On 1 April 2022, Mr. Nasser Mohamed Amin Abdalla informed Trial Chamber I, for the first time since his appointment, that he could not travel to The Hague due to a travel ban imposed on him by the Egyptian authorities.
5. On 5 April 2022, following a request from Trial Chamber I to provide further information as regards the travel ban, Mr. Nasser Mohamed Amin Abdalla indicated that the travel ban was imposed in 2016.
6. On 6 May 2022, Mr. Nasser Mohamed Amin Abdalla's mandate in case ICC-02/05-01/20, was terminated by Trial Chamber I by confidential decision dated 5 May 2022, when it became apparent that Mr. Nasser Mohamed Amin Abdalla could not travel to The Hague to provide in person representation for his clients due to the travel ban.

## **II. SUMMARY OF PROCEDURAL HISTORY**

- 11 August 2022: Disciplinary Complaint of the Registrar with referral to the Commissioner.
- 23 October 2022: Response to the Disciplinary Complaint by Mr. Nasser Mohamed Amin Abdalla.
- 9 January 2023: Report of the Commissioner, indicating that Mr. Nasser Mohamed Amin Abdalla was aware of that travel ban since at least 14 July 2016, and failed to disclose it on five different occasions.
- 17 April 2023: First meeting of fully composed Disciplinary Board for counsel (the Board) took place. Board determined that a disciplinary proceeding should be continued against Counsel (Rules, Art 8.1.b).
- 01 August 2023: Summons to Appear before the Disciplinary Board for determination as to whether Mr. Nasser Mohamed Amin Abdalla's misconduct amounts to a violation of Article 5, Article 16(1) and Article 24(3) of Code of Professional Conduct

- 31 August 2023: Response of Mr. Nasser Mohamed Amin Abdalla to the Commissioner's Report with 5 annexes.

### III. DISCUSSION

The disciplinary hearing took place as scheduled on 26<sup>th</sup> and 27<sup>th</sup> September 2023 in a courtroom set aside for this purpose at the ICC headquarters in The Hague.

The hearing was held in public.

As he was unable to leave Egyptian territory, Mr. Nasser Mohamed Amin Abdalla agreed to appear by videoconference, as his counsel was present in The Hague. Whenever he wished, Mr. Nasser Mohamed Amin Abdalla was able to speak confidentially with his counsel.

Ms. Diane Turner, Commissioner, was unable to travel to The Hague due to a health concern. With the assent of the Board, she was able to carry out her duties without difficulty by videoconference.

The hearing proceeded as scheduled in the agenda communicated to everyone before the debates.

Mr. Nasser Mohamed Amin Abdalla's case was examined, and each of the parties involved was given the opportunity to speak in turn, to express their views freely, to present submissions and to inform the Board.

On the 27<sup>th</sup> of September 2023 in the afternoon Ms Diane Turner was heard in her final oral observations.

Mr Amin's counsel was heard in his defence, in particular repeating the arguments contained in his response to the Commissioner's report dated 31<sup>st</sup> August 2023 and his submissions presented on the 26<sup>th</sup> of September 2023.

In accordance with article 15.9 of the Rules and Procedures of the Disciplinary Board and the Disciplinary Appeals Board, Mr. Nasser Mohamed Amin Abdalla was given the opportunity to speak last.

The Presiding member closed the proceedings for deliberation at 4.20 pm on the 27<sup>th</sup> of September 2023.

## **IV. DECISION**

### **1. Findings of the Disciplinary Board**

The Board finds that there is evidence in the complaint file showing that Mr. Nasser Mohamed Amin Abdalla consciously concealed from the Court the fact that he was prevented by the authorities in his country from travelling outside Egypt.

The Board notes that Mr. Nasser Mohamed Amin Abdalla acknowledges himself that his failure to inform the Court of the travel ban is a regrettable error of judgment.

The Board (while noting that there is some uncertainty as to the precise date on which Mr. Nasser Mohamed Amin Abdalla was informed of the measure preventing him from leaving his country) considers that the lawyer has deceived and knowingly misled the Court during a long period.

The Board considers that Mr. Nasser Mohamed Amin Abdalla has thus breached article 24 (3) of the Code of Professional Conduct for counsel (the Code).

Without considering that an infringement of the Code automatically implies a breach of the oath taken by lawyers before the Court, the Board considers that the acts of which Mr. Nasser Mohamed Amin Abdalla is accused also constitute a breach of the principles of integrity and diligence referred to in article 5 of the code of conduct.

The Board finds that the alleged breach under Article 16(1) of the Code cannot be upheld insofar as it has not been established that the clients of Mr. Nasser Mohamed Amin Abdalla and his team suffered as a result of the situation and there is no evidence that his own interests were placed above the interests of the victims.

The Board finds that it is even clear from the complaint file, and in particular from the statement of Ms Natalie von Wistinghausen of 10 June 2022 and the Court's decision of 5 May 2022 (paragraph 22), that the victims' representation was adequately assured. During this time, Mr. Nasser Mohamed Amin Abdalla collected victims' testimonies and participated in the formulation of the team strategy, and thus accomplished a very important task for little remuneration.

## 2. Sanction

The Board, after deliberating on this matter, by majority vote, determines that Mr. Nasser Mohamed Amin Abdalla breached the provisions of articles 24 (3) and 5 of the Code of Professional Conduct for counsel.

Consequently, the Disciplinary Board for counsel:

- taking into consideration the seriousness of the acts committed by Mr. Nasser Mohamed Amin Abdalla;
- also taking into consideration the fact that Mr. Nasser Mohamed Amin Abdalla is a lawyer of good reputation in his own country and abroad, and that he has devoted much of his career to the defence of human rights and international criminal justice;
- decides to impose on Nasser Mohamed Amin Abdalla the disciplinary sanction of admonishment, in accordance with article 42.1 a of the Code of Professional Conduct for counsel with the following recommendation:

*“The Disciplinary Board recommends that for such future appointments where responsibilities are shared between counsels, the respective roles and responsibilities of each counsel acting under such joint mandate be clearly set out in a document signed by all concerned lawyers. “*

- informs Mr Nasser Mohamed Amin Abdalla that under article 43 of the Code of Professional Conduct for counsel, he is entitled to appeal the decision within thirty (30) days as of the issuance of the decision.

This decision was delivered orally at the hearing of 27<sup>th</sup> September 2023.

The Hague, 27 September 2023

*V. Asselineau*  
Mr Vincent Asselineau

*[Signature]*  
Mr Philippe Larochelle

*[Signature]*  
Mr Hossam ElDeeb