

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

**No. ICC-02/05-03/09
Date: 28 November 2023**

TRIAL CHAMBER IV

Before: Judge Kimberly Prost, Presiding Judge
Judge Reine Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR v. ABDALLAH BANDA ABAKAER NOURAIN**

Confidential, *ex parte*, only available to the Prosecution and the Registry

Order scheduling a status conference

To be notified in accordance with Regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor Nazhat Shameem Khan Julian Nicholls	Counsel for the Defence
Legal Representatives of Victims	Legal Representatives of Applicants
Unrepresented Victims	Unrepresented Applicants for Participation/Reparations
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
States Representatives	<i>Amicus Curiae</i>
REGISTRY	
Registrar Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Unit	Detention Section
Victims Participation and Reparations Section	Other

TRIAL CHAMBER IV (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Abdallah Banda Abakaer Nourain*, issues this ‘Order scheduling a status conference’.

1. The Chamber orders an *ex parte* status conference, Prosecution and Registry only, for **7 February 2024**, at 09:30.
2. The Chamber orders a status conference during which the Prosecutor will provide a detailed briefing to the Chamber as to the basis for its request to withdraw the charges. The Chamber recalls that the charges against Mr. Banda were confirmed by Pre-Trial Chamber I on 7 March 2011 in accordance with the statutory framework for such decisions.¹ Notably the Pre-Trial Chamber found that there was sufficient evidence to establish substantial grounds to believe that Mr Banda committed the war crimes of violence to life, intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the UN Charter, and pillaging, allegedly committed during an attack carried out on 29 September 2007 in Darfur, Sudan.² In its decision the Pre-Trial Chamber set out in detail the evidence relied upon in reaching its conclusion.
3. The Chamber reminds the Prosecution that any assessment of evidence at this stage of the proceedings, must focus on, and specifically address, the evidence relied upon by the Pre-Trial Chamber and any developments in terms of the availability of the same. Equally, the legal standard to be applied objectively to the evidence is that prescribed in the Statute – is there sufficient evidence to establish substantial grounds to believe that Mr Banda committed the crimes as charged³ - as opposed to a standard elaborated in an OTP policy paper.⁴
4. The Chamber further instructs the Prosecution and the Registry to provide an update on the efforts being made to secure Mr Banda’s arrest.

¹ Corrigendum of the “Decision on the Confirmation of Charges”, ICC-02/05-03/09-121-Conf-Corr (a public redacted version was filed on 8 March 2011, ICC-02/05-03/09-121-Corr-Red) (‘Confirmation Decision’).

² Confirmation Decision, ICC-02/05-03/09-121-Corr-Red.

³ Article 61(7) of the Rome Statute.

⁴ See Prosecution’s application for leave to appeal the “Decision on the Prosecution’s request to withdraw the charges against Abdallah Banda Abakaer Nourain”, 23 October 2023, ICC-02/05-03/09-730-Conf-Exp, paras 3, 14, 20, 22, 23; Prosecution request to withdraw the charges against Abdallah Banda Abakaer Nourain and Response to Order directing the Registry and the Prosecution to provide updates, 5 October 2023, ICC-02/05-03/09-727-Conf-Exp, paras 1, 5, 20, both *referring to* ‘reasonable prospect of conviction’.

FOR THESE REASONS, THE CHAMBER HEREBY

CONVENES an *ex parte* status conference, Prosecution and Registry only, on **7 February 2024**, at 09:30.



Judge Kimberly Prost

Presiding Judge



Judge Reine Alapini-Gansou



Judge María del Socorro Flores Liera

Dated this **28 November 2023**

At The Hague, The Netherlands