

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



*Original: English*

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

Date: 23 January 2026

**TRIAL CHAMBER IV**

**Before:** Judge Kimberly Prost, Presiding Judge  
Judge Keebong Paek  
Judge Nicolas Guillou

**SITUATION IN DARFUR, SUDAN**

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

**CONFIDENTIAL *Ex Parte*, Defence and Registrar Only  
with Confidential, *ex parte*, Annexes A-B, Defence and Registrar Only**

**Defence Request to Reply to ICC-02/05-03/09-760-Conf-Exp**

**Source:** Defence Team for Abdallah Banda Abakaer Nourain

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**REGISTRY**

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## I. INTRODUCTION

1. Pursuant to Regulation 24(5) of the Regulations of the Court ('RoC'), the Defence for General Abdallah Banda Abakaer Nourain ('Defence') hereby requests requests permission from Trial Chamber IV ('Chamber') to reply to Registry submissions ICC-02/05-03/09-760-Conf-Exp.<sup>1</sup> The Defence seeks to reply to the following three (3) issues:
  - (a) ISSUE 1: The Defence seeks to make original observations on the Registry's 'request for guidance' related to General Abdallah Banda's passport found in paragraphs 28-29 of ICC-02/05-03/09-760-Conf-Exp;<sup>2</sup>
  - (b) ISSUE 2: The Defence seeks to correct the false and incorrect characterisation of the statement "[t]o date, the Registry did not receive any request for additional funds, in line with article 75 of the LAP, for those said activities. Absent of such request, the Registry did not issue any decision on the matter[...]"<sup>3</sup>
  - (c) ISSUE 3: Dismissing the Request for Review *in limine* as requested by the Registry shall only delay an ultimate decision by the Chamber related to the payment of fair remuneration by the Registry to the Defence.<sup>4</sup>
2. In relation to ISSUE 1, as this is a new argument unrelated to Regulation 83(4) of the RoC, the Defence requests the Chamber to grant it until **30 January 2026** to submit its original response to this new argument.

## II. CONFIDENTIALITY

3. Pursuant to Regulation 23 *bis*(2) of the RoC, the Defence files this request for reply and associated annexes as CONFIDENTIAL, *ex parte*, Defence and Registry only as it relates to filing of the same classification.

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<sup>1</sup> Trial Chamber IV, *Registry's Observations on the "Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court"* (ICC-02/05-03/09-759-Conf-Exp) and *Request for Guidance*, ICC-02/05-03/09-760-Conf-Exp.

<sup>2</sup> *Ibid*, paras 28-29.

<sup>3</sup> *Ibid*, para. 22-23.

<sup>4</sup> *Ibis*, para. 15.

### III. PROCEDURAL SUMMARY

4. The Defence hereby incorporates its Procedural Summary as outlined in ICC-02/05-03/09-759-Conf-Exp.<sup>5</sup>
5. On 15 January 2025, the Defence filed its Request for Review of a decision on funding issued by Counsel Support Section and confirmed by the Registrar.<sup>6</sup>
6. On 20 January 2026, Counsel Support Section issued a decision on funding to the Defence granting it one-month counsel salary at step-4 remuneration with the addition of the 20% living expenses.<sup>7</sup> This decision was in response to the Defence's 23 December 2025 request for funds.<sup>8</sup>
7. On 22 January 2026, the Registry submitted its observations on the Request for Review.<sup>9</sup> Buried at the end of the submissions was an original, unrelated request from the Registrar.<sup>10</sup>

### IV. SUBMISSIONS

8. While the Defence understands that the Registry technically has a right to respond to this request to reply, the Defence shall be drafting its reply throughout the weekend, shall be prepared to file its reply on **ISSUE 2** and **ISSUE 3** by 16:00 CET on 26 January 2026 if desired or requested by the Chamber.
9. As written above, the Defence requests to have until **30 January 2026 at 16:00 CET** to file its observations on **ISSUE 1**. As discussed below, this is an original issue which should have been requested separately from the response to the Request for Review.

#### A. ISSUE 1

10. In the Registry's response to the Request for Review, it "sought guidance" in respect to the Registry's demands to the Defence related to its Client's passport data page.<sup>11</sup> In the

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<sup>5</sup> Trial Chamber IV, *Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court*, ICC-02/05-03/09-759-Conf-Exp ('Request for Review'), paras 5-33.

<sup>6</sup> Request for Review.

<sup>7</sup> See Confidential, *ex parte*, Defence and Registrar only Annex A.

<sup>8</sup> See Confidential, *ex parte*, Defence and Registrar only Annex B.

<sup>9</sup> Trial Chamber IV, *Registry's Observations on the "Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court" (ICC-02/05-03/09-759-Conf-Exp) and Request for Guidance*, ICC-02/05-03/09-760-Conf-Exp.

<sup>10</sup> *Ibid.*, para. 28-29.

<sup>11</sup> *Ibid.*

Request for Review, the Defence did not write to the validity of request.<sup>12</sup> The Defence complained about how the Registry continued to create work for the Defence and was not going to be remunerated for the work.<sup>13</sup>

11. While the Defence was aware that the Registry stated that it may seek an order from the Chamber in relation to the disclosure of the privileged document,<sup>14</sup> it was underhanded and rather unprofessional to make such a request in the response to the Request for Review. Such a request should have been made independent of the response to allow for the Defence to respond to the Registry's request for the disclosure of a privileged document. With the utmost respect, the Chamber should not take this attempted infringement on the Client's rights lightly.
12. When granted leave, the Defence shall explain how the Registry is attempting to exploit the Defence in ways other than the economical exploitation it attempted to do in December 2025. The Defence shall also demonstrate the less than satisfactory explanation given by the Registrar in paragraphs 28-29 for its so-called need for the passport now. Finally, the Defence shall explain further actions undertaken by Defence team members in relation to this request.
13. The Defence requests that the Chamber grant the Defence leave to file original submissions on ISSUE 1, to be filed no later than 30 January 2026 at 16:00 CET.

## **B. ISSUE 2**

14. ISSUE 2 relates directly to a false characterisation of the facts. The Registry stated, "[t]o date, the Registry did not receive any request for additional funds, in line with article 75 of the LAP, for those said activities."<sup>15</sup> This statement, when related to requesting funds to for the summaries of reclassified documents, is categorically false. If given leave to reply to this issue, the Defence shall submit a two-paragraph submission on this issue.
15. The Defence seeks leave to reply as it could not have been expected that the Registrar and his staff would make such a claim. The Defence can only opinine that the Registrar and

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<sup>12</sup> The Defence maintained that it made no such undertaking to supply the Registry with a copy of the passport.

<sup>13</sup> Request for Review, paras 37-47.

<sup>14</sup> Request for Reivew, Confidential, *ex parte*, Defence and Registrar Only, Annex G, p. 3.

<sup>15</sup> Trial Chamber IV, *Registry's Observations on the "Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court"* (ICC-02/05-03/09-759-Conf-Exp) and *Request for Guidance*, ICC-02/05-03/09-760-Conf-Exp, para. 23.

those who drafted ICC-02/05-03/09-760-Conf-Exp failed in their duty to read the Defence submissions of 23 December 2025.

16. The Defence requests the Chamber to grant it leave to reply to ISSUE 2, and is willing and able to do so on or before 26 January 2026 at 16:00 CET.

### C. ISSUE 3

17. The Defence seeks leave to reply to the Registrar's request to dismiss the entire Request for Review *in limine* because the Defence filed one day late.<sup>16</sup> While the Defence could have foreseen this issue, dismissing the Request for Review shall only delay an ultimate decision by the Chamber related to the payment of fair remuneration by the Registry to the Defence. The Defence asks to do this out of judicial economy for the Chamber, the Registry and Defence. If the *in limine* request is granted, a nearly identical request shall be submitted to the Chamber within the next four to six weeks.
18. The Defence asks to submit no more than two pages, but more than likely only need one page, related to this topic.
19. The Defence requests the Chamber to grant it leave to reply to ISSUE 3, and is willing and able to do so on or before 26 January 2026 at 16:00 CET.

### V. REQUESTED RELIEF

20. For the reasons stated above, the Defence for General Abdallah Banda Abakaer Nourain requests Trial Chamber IV to grant it leave to appeal ISSUE 1, ISSUE 2 and ISSUE 3.
21. The Defence is able to file a reply to ISSUE 2 and ISSUE 3 as early as 26 January 2026 at 16:00 if order by the Chamber.
22. The Defence requests until 30 January 2026 at 16:00 to respond to ISSUE 1.

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<sup>16</sup> Trial Chamber IV, *Registry's Observations on the "Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court"* (ICC-02/05-03/09-759-Conf-Exp) and *Request for Guidance*, ICC-02/05-03/09-760-Conf-Exp, paras 28-29.

Respectfully submitted,



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Chief Charles Achaleke Taku  
On behalf of General Abdallah Banda Abakaer Nourain

Dated this 23<sup>rd</sup> day of January, 2026  
At Maryland, the United States of America