

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 July 2026

TRIAL CHAMBER IV

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

SITUATION IN DARFUR, SUDAN

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

PUBLIC

**Public Redacted Version of “Defence Request for the Conversion of the Arrest
Warrant against General Banda into a Summons to Appear” filed on 3 October
2025**

Source: Defence Team for Abdallah Banda Abakaer Nourain

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence
D07

☒ Legal Representatives of the Victims

☐ 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
The Republic of the Sudan

☐ Amicus Curiae

REGISTRY

Registrar
M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. The Defence for Abdallah Banda Abakaer Nourain ('Defence') hereby requests Trial Chamber IV ('Chamber') to convert the arrest warrant issued on 11 September 2014 against Mr Abdallah Banda Abakaer Nourain¹ ('General Banda') to a summons to appear. The Defence asserts that significant changed circumstances have arisen that enables the Chamber to convert the arrest warrant into a summons to appear.

II. CONFIDENTIALITY

2. Pursuant to Regulation 23 *bis*(1) of the Regulations of the Court, the Defence files this request as CONFIDENTIAL, *ex parte*, Defence, Prosecution, Government of the Republic of the Sudan ('Government of Sudan') and Registrar only. This request is filed *ex parte* as the information below relates to [REDACTED].

III. PROCEDURAL SUMMARY

3. On 7 March 2011, Pre-Trial Chamber I confirmed charges against Mr Banda.²
4. On 11 September 2014, the Chamber issued an arrest warrant for Mr Banda.³
5. On 3 March 2015, the Appeals Chamber upheld the arrest warrant against Mr Banda.⁴
6. On 13 November 2019, the Chamber issued its *Order following status conference on 30 October 2019*.⁵
7. On 17 December 2019, the Chamber issued its *Second Order following Status Conference on 30 October 2019*.⁶

¹ Trial Chamber IV, *Warrant of arrest for Abdallah Banda Abakaer Nourain*, [ICC-02/05-03/09-606](#).

² Pre-Trial Chamber I, *Corrigendum of the "Decision on the Confirmation of Charges*, ICC-02/05-03/09-121-Conf-Corr (public redacted version is found [here](#)).

³ Trial Chamber IV, *Warrant of arrest for Abdallah Banda Abakaer Nourain*, [ICC-02/05-03/09-606](#).

⁴ Appeals Chamber, *Judgment on the appeal of Mr Abdallah Banda Abakaer Nourain against Trial Chamber IV's issuance of a warrant of arrest*, ICC-02/05-03/09-632-Conf (public redacted version is found [here](#)).

⁵ Trial Chamber IV, *Order following status conference on 30 October 2019*, ICC-02/05-03/09-671-Conf-Exp (public redacted version is found [here](#)).

⁶ Trial Chamber IV, *Second Order following Status Conference on 30 October 2019*, ICC-02/05-03/09-675-Conf-Exp.

8. On 11 April 2025, representatives of the Defence and Prosecution met for a brief meeting about a Defence proposal to request to have the warrant of arrest converted into a summons to appear.
9. [REDACTED].⁷
10. [REDACTED].
11. On 19 July 2025, representatives from the Defence and [REDACTED].
12. [REDACTED].
13. [REDACTED].
14. On 18 September 2025, representatives from the Defence and Prosecution held a brief meeting about the content of this request. The Prosecution told the Defence that it was still deciding whether to support this request.

IV. TIMING OF RESPONSES

15. The Defence understands that this request must be sent through the appropriate diplomatic channels to the Government of Sudan, [REDACTED]. Regardless, the Defence respectfully asks that the Prosecution's response be filed on or before the normal 10-day response time as it has been apprised of the contents of this pleading beforehand [REDACTED].

V. RELEVANT STATUTES, RULES AND CASE LAW

16. Article 58(1) of the Rome Statute gives the Chamber the power to issue an arrest warrant if two conditions are fulfilled:
 - (a) *First, the chamber handling the case must be satisfied that "there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and*
 - (b) *The arrest of the person appears necessary:*
 - (i.) *To ensure the person's appearance at trial;*
 - (ii.) *To ensure that the person does not obstruct or endanger the investigation or the court proceedings; or*

⁷ Email from Defence to CSS [REDACTED].

(iii.)Where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.”

17. Article 58(7) of the Rome Statute gives the Chamber the power to issue a summons to appear if:

[T]he Pre-Trial Chamber is satisfied that there are reasonable grounds to believe that the person committed the crime alleged and that a summons is sufficient to ensure the person’s appearance, it shall issue the summons, with or without conditions restricting liberty (other than detention) if provided for by national law, for the person to appear. The summons shall contain:

18. Rule 119(3) of the Rules of Procedure and Evidence requires the Chamber to “seek the views of the Prosecutor, the person concerned [...] [and] any relevant State [...].”
19. According to the Appeals Chamber, “if any power is conferred upon a court to make an order or issue a decision, the parties have an implicit right to move the Chamber to exercise it.”⁸

VI. SUBMISSIONS

20. During this past year, General Banda [REDACTED].

Significant changed circumstances exist which justify changing the arrest warrant to a summons to appear.

21. Since the Defence began [REDACTED].
22. During the Defence’s initial discussions [REDACTED]. Over the second half of July 2025, the Defence spoke several times to its client, confirming different modalities and possible conditions of a summons. [REDACTED].
23. During the [REDACTED], along with the 18 September 2025 meeting, the Defence outlined its proposal to the Prosecution.

⁸ Appeals Chamber, *Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal*, [ICC-01/04-168](#), para. 20.

- (a) The Government of Sudan would ensure that General Banda shall appear before the Court at all stages of the trial. [REDACTED].
 - (b) If required by the Chamber, General Banda will report to police stations, government offices or UN facilities (whichever is easiest) on a regular basis to be determined by the Chamber. If the Chamber decides this is necessary, the Defence suggests that General Banda report on a bi-weekly or weekly basis, [REDACTED].
 - (c) General Banda would give a sworn oral statement to the Chamber that if he absconds or fails to appear before the Chamber when required, he waives his right to be present during the trial and all subsequent proceedings.⁹ If the Chamber desires the sworn statement in writing, the Defence can supply one in English as Zaghawan is an oral language.
 - (d) The Defence would support starting the trial in an expeditious fashion. This would entail the Prosecution, and possibly victims, giving its opening statements in January 2026. After the opening statements, a maximum six-month adjournment of the proceedings would be in order to allow for the Prosecution to catch up on its case, the Defence to start its investigations and give the Registry time to hire and/or train Zaghawan interpreters. The Defence proposes here in this request for the Prosecution to call its first witnesses no later than the week after the summer recess of 2026 ends, but preferably starting in late April or early May of 2026.
 - (e) Should the Chamber seek submissions on the right of a Chamber to continue a trial without the presence of the accused if an accused absconds after the start of the trial, or the right of an accused to waive his or her right to be present at trial, the Defence would gladly submit a pleading on this topic.
24. Firstly, considering the isolated nature of the crimes alleged against General Banda, [REDACTED], there is no chance that any further crimes of the same or similar nature alleged against General Banda shall be repeated. In fact, General Banda has always claimed his innocence of the alleged crimes, and nothing of this nature has been officially alleged against General Banda since the charges were levied against him.

⁹ The Defence notes that it would not intend the waiver to cover *force majeure* situations, such as if a flight were cancelled and one could not be immediately rebooked.

25. [REDACTED]. This is not in dispute. And as General Banda is [REDACTED] shall always know his whereabouts should the Chamber require to know his location.
26. Thirdly, the Defence knows of no accusations related to General Banda intimidating, harassing or placing any witnesses at risk. There is no risk to witnesses, or the proceedings, by allowing General Banda to remain [REDACTED] during the proceedings, noting especially that General Banda shall waive his rights under Article 62 should he abscond.
27. Finally, as General Banda [REDACTED]. That has been a significant concern of his, something which was conveyed to both the Registry and Prosecution over the prior years.
28. It is the position of the Defence that this is a workable plan, [REDACTED]. This would also be a milestone in proving to the Security Council that the ICC continues the directive related to the Darfur region and bring further prominence to the Court.

VII. REQUESTED RELIEF

29. For the abovementioned reasons, the Defence for Abdallah Banda Abakaer Nourain requests Trial Chamber IV to convert the arrest warrant for Mr Banda into a summons to appear.

Respectfully submitted,



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

Dated this 14th day of July, 2026

At The Hague, Netherlands