

**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 Nicolas Guillou

SITUATION IN DARFUR, SUDAN

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

PUBLIC

**Public Redacted Version of “Defence Request for Observations from the
Government of the Republic of the Sudan on Defence Request ICC-02/05-03/09-
742-CONF-EXP”, filed on 23 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. Pursuant to Rule 119(3) of the Rules of Procedure and Evidence ('RPE'), the Defence for Abdallah Banda Abakaer Nourain ('Defence') hereby requests Trial Chamber IV ('Chamber') to request observations from the Government of the Republic of the Sudan ('Government of the Sudan') on Defence filing ICC-02/05-03/09-742-CONF-EXP.

II. CONFIDENTIALITY

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

III. PROCEDURAL SUMMARY

3. On 7 March 2011, Pre-Trial Chamber I confirmed charges against General Abdallah Banda Abakaer Nourain ('General Banda').¹
4. On 11 September 2014, the Chamber issued an arrest warrant for General Banda.²
5. On 3 March 2015, the Appeals Chamber upheld the arrest warrant against General Banda.³
6. On 13 November 2019, the Chamber issued its *Order following status conference on 30 October 2019*.⁴
7. On 17 December 2019, the Chamber issued its *Second Order following Status Conference on 30 October 2019*.⁵

¹ 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](#)).

² Trial Chamber IV, *Warrant of arrest for Abdallah Banda Abakaer Nourain*, [ICC-02/05-03/09-606](#).

³ 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](#)).

⁴ 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](#)).

⁵ 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].⁶
10. [REDACTED].
11. On 19 July 2025, representatives from the Defence and Prosecution [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.
15. On 3 October 2025, the Defence requested the Chamber to convert the arrest warrant against General Banda into a summons to appear.⁷ Specifically, in paragraph 23(a)-(e), the Defence outlined actions that it [REDACTED] would undertake to the Court and General Banda for the conversion of the arrest warrant into a summons to appear.⁸
16. On 10 October 2025, Counsel Support Section notified the Defence that “the Sudanese authorities have been notified about the Defence’s” request dated 3 October 2025.⁹
17. On 16 October 2025, the Office of the Prosecutor responded to the Defence’s 3 October 2025 request.¹⁰ In its response, the Office of the Prosecutor stated that it did not object to the conversion of the arrest warrant to a summons to appear, in principle, but with certain stipulations (to be discussed below).¹¹

⁶ Email from Defence to CSS, [REDACTED].

⁷ See Trial Chamber IV, Defence Request for the Conversion of the Arrest Warrant against General Banda into a Summons to Appear, ICC-02/05-03/09-742-CONF-EXP.

⁸ *Ibid*, para. 23(a)-(e).

⁹ Email from CSS to Defence, *RE: BANDA DEFENCE – Defence request notification to Sudanese authorities*, received on 10 October 2025 at 09:49 CET.

¹⁰ See Trial Chamber IV, *Prosecution’s response to “Defence Request for the Conversion of the Arrest Warrant Against General Banda into a Summons to Appear”*, 3 October 2025, ICC-02/05-03/09-742-Conf-Exp, ICC-02/-05-03/09-743-Conf-Exp.

¹¹ *Ibid*, para.

18. On 16 October 2025, the Defence wrote to Counsel Support Section [REDACTED].¹² [REDACTED].
19. On 17 October 2025, the Defence received a response from Counsel Support Section, stating, “[t]he Sudanese authorities are not invited or requested to provide any observations; a request of this nature should come from the Chamber.”¹³

IV. RELEVANT STATUTES, RULES AND CASE LAW

20. Rule 119(3) of the RPE requires the Chamber to “seek the views of the Prosecutor, the person concerned [...] [and] any relevant State [...].”
21. 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.”¹⁴

V. SUBMISSIONS

22. In response to the Defence’s request of 3 October 2025, the Office of the Prosecutor wrote:

*In the unique circumstances of the case at hand, the Prosecution does not, in principle, object to the request. This position, however, is subject to the relevant assurances being placed on the record by the Government of Sudan (“GoS”), confirming its ability and willingness to comply with such logistical arrangements.*¹⁵

23. In order to expedite these proceedings, the Defence requests, pursuant to Rule 119(3) of the RPE, that the Chamber invite the Government of the Sudan to make formal submissions about the assurances stated by the Defence. [REDACTED].

¹² Email from Defence to CSS, [REDACTED].

¹³ Email from CSS to Defence, [REDACTED].

¹⁴ 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.

¹⁵ Trial Chamber IV, *Prosecution’s response to “Defence Request for the Conversion of the Arrest Warrant Against General Banda into a Summons to Appear”*, 3 October 2025, ICC-02/05-03/09-742-Conf-Exp, ICC-02/-05-03/09-743-Conf-Exp, para. 5.

VI. REQUESTED RELIEF

24. For the abovementioned reasons, the Defence for Abdallah Banda Abakaer Nourain requests Trial Chamber IV to invite observations from the Government of the Republic of the Sudan on Defence request ICC-02/05-03/09-472-Conf-Exp.

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