

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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 Response to the Legal Representative for
Victims' Observations on the Conversion of the Arrest Warrant into a
Summons to Appear", filed on 8 May 2026**

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

☐ 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 General Abdallah Banda Abakaer Nourain ('Defence') hereby responds to '*Submissions of the Legal Representatives for Victims on 'Defence's Request for the Conversion of the Arrest Warrant into a Summons to Appear' file on 3 October 2025*' ('LRV Submissions').¹ The Defence stands behind the submissions it made in the '*Defence Request for the Conversion of the Arrest Warrant against General banda into a Summons to Appear*' ('Defence Request').²
2. The Defence asserts that no justifiable reason has been advanced by the LRV as to why the arrest warrant against General Banda Abdallah Abakaer Nourain ('General Banda' or 'Client') should not be converted into a summons to appear.

II. CONFIDENTIALITY

3. Pursuant to Regulation 23 *bis*(2) of the Regulations of the Court, the Defence files this response as CONFIDENTIAL as it relates to filings of the same classification. The Defence shall not file a public redacted version until such time that it is requested by the Chamber.

III. PROCEDURAL SUMMARY

4. On 3 October 2025, the Defence requested to convert its Client's arrest warrant into a summons to appear.³
5. On 16 October 2025, the Office of the Prosecutor ('Prosecution') responded to the Defence Request, stating that it "*does not object to the Request, subject to the relevant assurances being placed on the record by the Government of Sudan.*"⁴

¹ Trial Chamber IV, *Submissions of the Legal Representatives for Victims on 'Defence's Request for the Conversion of the Arrest Warrant into a Summons to Appear' file on 3 October 2025*, ICC-02/05-003/09-772-Conf.

² 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 ('Defence Request').

³ 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.

⁴ 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-02/05-03/09-742-Conf, paras 1 and 7.

6. On 23 October 2025, the Defence requested the Chamber to seek submissions from the Government of the Republic of the Sudan ('GoS').⁵
7. On 24 October 2025, the Chamber invited the GoS to submit observations on the Defence Request on or before 10 November 2025.⁶
8. On 4 November 2025, the Registry transmitted the observations of the GoS.⁷ [REDACTED]
[REDACTED]
[REDACTED]⁸
9. On 6 November 2025, the Chamber ordered a status conference to be held on 18 November 2025.⁹
10. On 14 November 2025, the Chamber rescheduled the status conference for 8 December 2025.¹⁰ The Chamber also ordered the reclassification and confidential redacted versions of a myriad of filings and one transcript.¹¹
11. On 8 December 2025, the Chamber held the status conference.¹²
12. On 12 December 2025, the Chamber granted the Legal Representative for Victims until 26 March 2026 to submit her responses to the Defence's 3 October 2025 request and the Prosecution's request to withdraw the charges against General Banda.¹³ The Chamber gave the Prosecution and Defence until 2 April 2026 to file responses.¹⁴
13. On 19 March 2026, the LRV filed the LRV Application, requesting that the Prosecution be ordered to disclose its External Expert's report,¹⁵ disclose the witness interviews/statements used in support of the Prosecution's request to withdraw the charges

⁵ Trial Chamber IV, *Defence Request for Observations from the Government of the Republic of the Sudan on Defence Request ICC-02/05-03/09-742-CONF-EXP*, ICC-02/05-03/09-745-Conf.

⁶ Trial Chamber IV, *Order inviting the competent authorities of the Republic of Sudan to provide observations*, ICC-02/05-03/09-746-Conf, para. 4(a).

⁷ Trial Chamber IV, *Transmission of Observations from the Republic of Sudan pursuant to Order ICC-02/05-03/09-746-Conf-Exp*, ICC-02/05-03/09-747 with confidential *ex parte* Annexes I and II.

⁸ *Ibid.*, Confidential Annex II.

⁹ Trial Chamber IV, *Order scheduling a status conference*, ICC-02/05-03/09-749-Conf.

¹⁰ Trial Chamber IV, *Order rescheduling the status conference*, ICC-02/05-03/09-754-Conf.

¹¹ Trial Chamber IV, *Order on the re-classification and redaction of prior submissions, decisions and transcripts*, ICC-02/05-03/09-753-Conf.

¹² ICC-02/05-03/09-T-029-CONF-ENG and ICC-02/05-03/09-T-030-CONF-ENG.

¹³ Trial Chamber IV, *Order on matters arising from the status conference of 8 December 2025*, ICC-02/05-03/09-758-Conf, para. 6.

¹⁴ *Ibid.*

¹⁵ LRV Application, para. 41.

against General Banda¹⁶ and a two-week extension to file its observations from the date of the disclosure of the requested material.¹⁷

14. On 19 March 2026, the Chamber adjusted the deadline for any possible responses to the LRV Application to 24 March 2026 at 16:00 CET.¹⁸
15. On 2 April 2026, the Chamber adjusted the deadline for the LRV filings to 1 May 2026 and the Prosecution and Defence responses to 8 May 2026.¹⁹

IV. SUBMISSIONS

16. Regardless of the outcome of other decisions currently pending before the Chamber, the Defence reiterates its position that change circumstances warrant the conversion of the arrest warrant into a summons to appear for General Banda. Under the unique circumstances presented by the Defence in its 3 October 2025 Defence Request,²⁰ the Prosecution does not object to the Chamber converting the arrest warrant into a summons to appear.²¹ Furthermore, the LRV does not put forth a single valid reason for the Chamber to decide against the Defence Request. The Defence hereby uses the next paragraphs to elaborate as to why the LRV's submissions should fail.²²

A. The Prosecution's request for a withdrawal of the charges against General Banda is still pending.

17. The Defence understands the arguments made in the LRV Submissions, and wishes merely to expand on her comments. The Defence agrees that making a decision on the conversion of the arrest warrant into a summons to appear would be premature without the Chamber making a decision on the request to withdraw the charges against General Banda.²³

¹⁶ LRV Application, para. 41.

¹⁷ LRV Application, para. 42.

¹⁸ Email from Trial Chamber IV to Parties and Participants, *Responses to request ICC-02/05-03/09-764-Conf*, received on 19 March 2026 at 14:00 CET.

¹⁹ Trial Chamber IV, *Decision on the Prosecution's request for an extension of time to provide access to witness statements*, ICC-02/05-03/09-769-Conf, p. 5.

²⁰ Trial Chamber IV, *Defence Request for Observations from the Government of the Republic of the Sudan on Defence Request ICC-02/05-03/09-742-CONF-EXP*, ICC-02/05-03/09-745-Conf.

²¹ 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-02/05-03/09-742-Conf, paras 1 and 7.

²² Trial Chamber IV, *Submissions of the Legal Representatives for Victims on 'Defence's request for the Conversion of the Arrest Warrant into a Summons to Appear'* [sic] filed on 3 October 2025, ICC-02/05-03/09-772-Conf ('LRV Submissions').

²³ LRV Submissions, paras 44-48.

18. It is the Defence's understanding that the Chamber intends to render its decisions on the outstanding requests proximate to each other, if not on the same day. The Defence has this understanding based on the Chamber's 2 April 2026 decision, where the Chamber rejected the Defence's request to bifurcate the responses to the two pleadings from the LRV.²⁴

B. The LRV fails to appreciate the changed circumstances of the case.

19. The GoS has undergone significant changes since 2019. During that year, former president Omar Al-Bashir was ousted as the head of the GoS, and since then, has formed a transitional government looking to end the crisis and killings in the country, now caused by the RSF.
20. To show the GoS's alleged non-compliance, the LRV uses a 2009²⁵ and 2012²⁶ decisions from the *Al-Bashir* and *Hussein* cases. This was before the change of the government. Since the overthrow of the Al-Bashir government and the departure of the RSF, [REDACTED]
[REDACTED]
[REDACTED]
21. The LRV also attempts to confuse the Chamber in paragraph 64 when it compares the situation in the Sudan in 2010 and in 2025.²⁷ It is unconscionable to compare the different situations and the two different governments. As people can change over time, so can governments. The GoS is trying to be better, and comments like this are, simply put, a slap in the face to people trying to make concrete and positive changes.
22. Finally, even the Prosecution indirectly agrees with the Defence [REDACTED]
[REDACTED] the Prosecution stated that it "*does not object to the Request, subject to the relevant assurances being placed on the record by the Government of Sudan.*"²⁸ This statement strongly implies that the Prosecution feels that [REDACTED]

²⁴ Trial Chamber IV, *Decision on the Prosecution's request for an extension of time to provide access to witness statements*, ICC-02/05-03/09-769-Conf, para. 8.

²⁵ LRV Submissions, paras 56-57.

²⁶ LRV Submissions, para. 55.

²⁷ LRV Submissions, para. 64.

²⁸ 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-02/05-03/09-742-Conf, paras 1 and 7.

23. While the LRV can use decisions from over a decade ago to show prior non-compliance, that is not the case today. [REDACTED]

[REDACTED] With the utmost respect to the Chamber, the Chamber should not look at it in any other way as proposed by the LRV. The Defence requests that the Chamber convert the arrest warrant against General Banda into a summons to appear.

C. General Banda is fighting to protect his people from another genocide.

24. The LRV fails to appreciate the situation going on in the Dafur region of the Sudan today. While it may be quaint to write that the GoS should have arrested General Banda when he joined forces with the GoS in 2025, she fails to comprehend the entire situation, which quite frankly, is unfortunate.

25. The GoS is defending the people of Darfur from a genocide. Having lost a significant amount of its armed forces when the RSF turned against the GoS in 2023, military forces with competent leaders were, and still are, needed. While it is enticing to write that the GoS has a duty under SC Resolution 1593 to arrest General Banda, the GoS also has a duty to protect its people from another genocide which with the rest of the world fails to help.²⁹

26. [REDACTED]
[REDACTED] Just because the LRV cannot fathom a world where one is protecting life while trying to clear his own name is rather strange. The Chamber should not be persuaded by the LRV Submissions.

D. The LRV makes a completely incorrect assumption as to the waiver proffered by the Defence.

27. The LRV makes an incorrect assumption as to the Defence submissions in paragraph 23(c) of the Defence Request.³⁰ The LRV, without any evidence whatsoever, postulates that General Banda is planning situations where he will abscond from trial if the request to convert the arrest warrant into a summons to appear is granted. This could not be further from the truth, and shows the depth the LRV is willing to go when making warrantless accusations.

²⁹ LRV Submissions, para. 61.

³⁰ LRV Submissions, para. 63.

28. During the summer and fall of 2021, there were discussions between the Defence, Prosecution, Registry and General Banda himself related to the former scope of the Defence's work. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Counsel offered a solution to this problem, which became the precursor to paragraph 23(c) of the 3 October 2025 request.³¹ This was a negotiated term based on the worries of the Parties, not the means to leave a door open for General Banda to abscond.

29. The Chamber must treat this assertion by the LRV for what it is, unfounded speculation.

V. REQUESTED RELIEF

30. The Defence for General Abdallah Banda Abakaer Nourain requests Trial Chamber IV to convert the arrest warrant against General Abdallah Banda Abakaer Nourain into a summons to appear. The Defence has shown that the changed circumstances warrant such a conversion and the Prosecution does not object to said conversion.

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

³¹ Trial Chamber IV, *Defence Request for the Conversion of the Arrest Warrant against Mr Banda into a Summons to Appear*, ICC-02/05-03/09-710-Conf-Red, para. 22.