

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 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***

**URGENT
PUBLIC**

Public Redacted Version of “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, 22 January 2026

Source: Registry

☒ **The Office of the Prosecutor**☒ **Counsel for the Defence**☒ **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. Pursuant to Trial Chamber IV (“Chamber”)’s Email Instruction dated 16 January 2026,¹ the Registry hereby submits its observations on the “Defence’s Request Pursuant to Regulation 83(4) of the Regulations of the Court” (“Defence Request”) submitted on 15 January 2026.²

II. Procedural history

2. On 12 November 2025, the Defence submitted its “Request Pursuant To Regulation 83(3) Of The Regulations Of The Court” (“Request”) to CSS requesting, *inter alia*, that “team members of the Defence be remunerated for, at the most, 15 hours of work each for the month of October 2025” and for the months of November and December 2025 “fully remunerated until such time that the Chamber renders a decision on the Defence’s motion”.³
3. On 19 November 2025, the Defence submitted its “Updated Request Pursuant To Regulation 83(3) Of The Regulations Of The Court” (“Updated Request”) requesting, *inter alia*, that “the general team composition found in the Legal Aid Policy of Table 1 be instituted as of 1 December 2025”.⁴
4. On 25 November 2025, the CSS issued its “CSS Decision on the “Request Pursuant to Regulation 83(3) of the Regulations of the Court” submitted by the Banda Defence on 12 November 2025 and “Updated Request Pursuant to Regulation 83(3) of the Regulations of the Court”, submitted on 19 November 2025” (“Impugned Decision”),⁵ finding, *inter alia*, that 1) the Defence “fails to

¹ Email from Trial Chamber IV to the Registry on 16 January 2026 at 16.29.

² Defence, “Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court” (“Defence Request”), 15 January 2026, ICC-02/05-03/09-759-Conf-Exp.

³ Defence, “Request Pursuant To Regulation 83(3) Of The Regulations Of The Court” (“Request”), 12 November 2025, paras 23 and 28

⁴ Defence, “Updated Request Pursuant To Regulation 83(3) Of The Regulations Of The Court” (“Updated Request”), 17 November 2025, para. 16, received by the CSS on 19 November 2025.

⁵ CSS, “CSS Decision on the “Request Pursuant to Regulation 83(3) of the Regulations of the Court” submitted by the Banda Defence on 12 November 2025 and “Updated Request Pursuant to Regulation 83(3) of the Regulations of the Court”, submitted on 19 November 2025” (“Impugned Decision”), 25 November 2025, CSS/2025/714.

provide justifications as to how the work performed in October 2025 constitutes “unforeseen circumstances outside the control of defence or victims’ teams” and that requests for additional means cannot be granted retroactively, rejecting the request for additional means before 12 November 2025, and 2) given, *inter alia*, that Mr Banda is not in the ICC custody, the request for “one counsel, one co-counsel, two legal assistants, two full time case managers and one full time language assistant” is not “justified” at this stage. The CSS “considers reasonable and justified allocating additional resources in the amount of 12000 euros for the period from 12 November until 9 December 2025, allowing the Defence to prepare for the Status Conference”.⁶

5. On 5 December 2025, the Defence submitted its “Request For Review Of A Decision On Funding” (“Request for Review”)⁷ requesting the Registrar to “overturn the Impugned Decision and order that all three members of the Defence receive full remuneration from 1 November 2025 until all issues related to the 8 December 2025 status conference have been resolved”.⁸
6. On 23 December 2025, the Defence submitted its “Further Request For Funding” (“Defence Request of 23 December 2025”), requesting the CSS for “funding for the Defence Team for General Abdallah Banda Abakaer Nourain (‘Defence’) from 10 December 2025 until such time that the issues discussed at the 8 December 2025 status conference are resolved.”, stating, *inter alia*, that the Defence activities of “[d]rafting Responses and Replies to the Office of the Prosecutor and Legal Representative for Victims”, “Contacting Potential Witnesses to Prepare for a Speedy Trial and on Behalf of the Victims and Witnesses Unit” and “Uploading Defence Material into Nuix eDiscovery System and Downloading old Pleadings”.⁹

⁶ *Ibid.*, pp. 3-4.

⁷ Defence, “Request For Review Of A Decision On Funding” (“Request for Review”), 5 December 2025.

⁸ Defence, Request for Review, para. 56.

⁹ Defence, “Further Request For Funding” (“Defence Request of 23 December 2025”), 23 December 2025.

7. On 29 December 2025, the Registrar issued the “Registrar Decision on “Request for review of a Decision on Funding”, submitted on 5 December 2025 by Counsel for the Defence in *Banda*” (“Registrar’s Decision”) finding “no clear error in [the Impugned Decision]” and rejecting the Request for Review to provide a “to provide a “full remuneration” as further detailed in the Request for Review, “from 1 November 2025 until all issues related to the 8 December 2025 status conference have been resolved”.¹⁰
8. On 15 January 2026, the Defence submitted its “Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court”¹¹ (“Defence Application”) requesting, *inter alia*, the Chamber “to order the Registry to pay current: (a) Defence team members remuneration based on the [LAP] from 1 November 2025 until the Chamber renders its decisions on the status conference” or “(b) Defence team members hourly remuneration from 1 November 2025 until the Chamber renders its decisions on the status conference”,¹² stating, *inter alia*, the Defence’s activities to obtain the “[c]onfirmation of General Banda’s Passport”, “drafting summaries of the reclassified documents”, and “prepar[ation] for all foreseeable outcomes”.¹³
9. On 20 January 2026, the CSS issued its decision on the Defence Request of 23 December 2025 considering that “reasonable and justified allocating limited additional resources in the form of a lump sum equivalent to one month of Counsel’s fees at step 4, including living costs, for the period from 10 December 2025 until 2 April 2026” (“CSS Decision of 20 January 2026”).¹⁴

III. Classification

¹⁰ Registrar, “Registrar Decision on “Request for review of a Decision on Funding”, submitted on 5 December 2025 by Counsel for the Defence in *Banda*”, 29 December 2025.

¹¹ Defence, “Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court” (“Defence Application”), 15 January 2026, ICC-02/05-03/09-759-Conf-Exp.

¹² Defence, Defence Application, paras. 1 and 59.

¹³ *Ibid.*, paras 37-57.

¹⁴ CSS, “CSS Decision on “Further Request for Funding”, submitted by the Banda Defence on 23 December 2025”, 20 January 2026, CSS/2026/39.

10. In accordance with regulation 23 *bis*(1) and (2) of the Regulations of the Court (“RoC”), the present filing is classified as confidential *ex parte* Defence and Registry only as it refers to Registry’s decisions with the same level of classification.

IV. Applicable law

11. For the purpose of the present submission, the Registry has considered, *inter alia*, regulation 83 of the RoC, regulation 135 of the Regulations of the Registry (“RoR”) and the Legal Aid Policy.¹⁵

V. Submissions

12. Pursuant to regulation 135(2) of the RoR, Counsel may request the Chamber to review a decision issued by the Registrar on dispute related to legal aid fees “[w]ithin 15 calendar days of notification” of such decision. The Registry notes that the Registrar issued his decision on 29 December 2025¹⁶ and the Defence submitted its Application on 15 January 2026. In light of this, the Registry finds that the Application should be rejected *in limine*.

13. At the outset, the composition of the Defence team is as follows:

- 1 Counsel,
- 2 Co-Counsel, and
- 3 Case Manager.

14. Following the Chamber’s decisions,¹⁷ on 15 November 2022, the Registry informed the Defence of a change of remuneration indicating that it will be

¹⁵ “Draft Legal aid policy of the International Criminal Court”, [ICC-ASP/22/9](#), 22 November 2023 (that it includes in its title, “draft” has no impact on the status of the LAP).

¹⁶ Email from the Immediate Office of the Registrar to the Defence on 29 December 2025 at 17.00.

¹⁷ Trial Chamber IV, “Decision on Associate Counsel’s Request to be appointed as Lead Counsel pursuant to Regulation 76 of the Regulations of the Court”, 25 September 2019, ICC-02/05-03/09-664-Conf-Exp, para. 11; Trial Chamber IV, “Decision to end mandated facilitation discussions and reports by the Registry”, 21 July 2021, ICC-02/05-03/09-705-Conf-Exp, paras. 8-9; Trial Chamber IV, “Decision on the Defence request for an order to the Registry to provide the Defence with an interpreter”, 14 October 2022, ICC-02/05-03/09-719-Conf-Exp, para. 3.

“remunerated with a lump sum amount of €5,000” for the purpose of “securing the presence of Mr Banda at the Seat of the Court.” and that the Registry will continue to provide the Defence team with linguistic assistance twice a month “in order to facilitate communication of the team with Mr Banda”.¹⁸ On 8 June 2023, the Registry informed Counsel that “[it] will remunerate the fees for a Counsel during these phone communication”.¹⁹

15. The Defence requests the Chamber to review the Impugned Decision and Registrar’s Decision, more specifically to order the Registry to “pay current”: “(a) Defence team members remuneration based on the [LAP] from 1 November 2025 until the Chamber renders its decisions on the status conference” or “(b) Defence team members hourly remuneration from 1 November 2025 until the Chamber renders its decisions on the status conference”.²⁰

16. As explained in the Registrar’s Decision,²¹ the Registry notes that the current stage of the proceedings in this case is not envisaged in the LAP;²² however, paragraphs 74-76 of the LAP provide that Counsel may apply for additional means “in the case of unforeseen circumstances outside the control of defence or victims’ teams”.

17. As indicated in the Registrar’s Decision, confirming the Impugned Decision, any request for additional means must be submitted to the Registry in advance and payment cannot be retroactive. Noting that the Defence submitted a request for additional means on 12 November 2025, no additional means could be granted for the period of 1 November 2025 to 11 November 2025.²³ However, as indicated in the Registrar’s Decision, confirming the Impugned Decision, the

¹⁸ CSS, “Change in remuneration - the Prosecutor v. Abdallah Banda Abakaer Nourain (ICC-02/05-03/09)”, 15 November 2022, CSS/2022/615.

¹⁹ Email from the CSS to the Defence on 8 June 2023 at 13:52.

²⁰ Defence, Defence Application, para. 1.

²¹ Registrar, Registrar’s Decision, para. 24.

²² “Draft Legal aid policy of the International Criminal Court”, ICC-ASP/22/9, 22 November 2023, paras. 74-76.

²³ Registrar, Registrar’s Decision, paras 31-3.

Registry granted additional means to the Defence for activities carried out from 12 November 2025 until 9 December 2025.²⁴ The Registry notes that the Defence Application does not contain any new arguments justifying allocation of additional resources during this period.

18. Noting activities conducted by the Defence in relation to judicial activities as described in the CSS Decision of 20 January 2026, on 20 January 2025, the CSS granted the Defence Request of 23 December 2025, deciding to “[allocate] limited additional resources in the form of a lump sum equivalent to one month of Counsel’s fees at step 4, including living costs, for the period from 10 December 2025 until 2 April 2026”.²⁵

19. The Registry notes that since the suspect remains at large at this stage of the proceedings, the activities described by the Defence cannot justify approval of “full time funding for [...] Co-Counsel, Case Manager and [Counsel]. However, as mentioned during the Status Conference on 8 December 2025²⁶ and as indicated in the Registrar’s Decision, the Registry reiterates that should the Chamber decides to start the trial in the *Banda case*, the Registry will provide the Defence team with a complete Defence team, as envisaged in the LAP.

20. In light of the foregoing, the Registry submits that the Defence Application should be rejected.

In relation to the Defence’s “confirmation of General Banda’s passport”

21. The Defence submits that it has taken steps to secure a copy of Mr Banda’s passport and indicating that it was not remunerated for this activity.²⁷ To 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

²⁴ Registrar, Registrar’s Decision, paras 35-37.

²⁵ CSS, CSS Decision of 20 January 2025, para 21.

²⁶ Transcript of 8 December 2025, ICC-02/05-03/09-T-030-CONF-EXP-ENG, Page 5 line 15 to page 6 line 17.

²⁷ Defence, Defence Application, paras. 37-47.

not issue any decision on the matter. The Registry reiterates that the Defence must submit request for additional means in advance, should only allocate resources for which it has been informed by the Registry that it will receive funding, and that any activity carried out without the prior approval of the Registry is at the own risk of the Defence.

*In relation to the Defence's "Drafting Summaries of the Reclassified Documents"*²⁸

22. The Defence indicates that it "informed the Chamber that the Defence would be drafting summaries of the recently reclassified documents", "started this project after 9 December 2025" and "must be remunerated for work undertaken for this purpose".²⁹

23. To 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.

*In relation to the preparation "for all foreseeable Outcomes"*³⁰

24. The Defence states that it will need to upload Defence material into the Nuix system, indicating that the Registry "impede[s] the Defence's activities" and it had a [REDACTED] and was not remunerated in this regard. On 20 January 2026, following the Defence Request of 23 December 2025, the CSS issued the CSS Decision of 20 January 2026 considering, *inter alia*, "reasonable and justified allocating limited additional resources in the form of a lump sum equivalent to one month of Counsel's fees at step 4, including living costs, for the period from 10 December 2025 until 2 April 2026, with the purpose to compensate the Banda Defence for the activities related [REDACTED]"³¹ as well as allowing the team to prepare the reply to the LRV's response to the "Prosecution's withdrawal

²⁸ Defence, Defence Application, paras. 48-51.

²⁹ Defence, Defence Application, paras 48-51.

³⁰ Defence, Defence Application, paras. 52-57.

³¹ Defence, Defence Request of 23 December 2025, para. 17.

request and the Defence's motion to convert the arrest warrant into a summons to appear".³²

25. In line with paragraph 101 of the LAP and regulation 83(1) of the RoC, any request for review of a CSS decision on legal aid matters should be addressed before the Registrar, notwithstanding any further request for review before the Chamber, in line with regulation 83(4) of the RoC. The Registry notes that the time to submit a request for review of the CSS Decision of 20 January 2026 before the Registrar has not elapsed; however, to date, the Registrar has not received any request for review of the CSS Decision of 20 January 2026.

26. The Defence states that it has been attending trainings [REDACTED] and "is not being remunerated for these important tutorial meetings".³³ To date, the Registry did not receive any request for additional funds, in line with article 75 of the LAP, for said activities. Absent of such request, the Registry has not issued any decision on the matter.

27. In light of the foregoing, the Registry submits the Defence Application should be rejected *in limine*.

Clarification on the request for a copy of Mr Banda's passport and request for guidance

28. Noting the Defence's submissions in relation to Mr Banda's passport, the Registry respectfully clarifies to the Chamber that, following the Status conference of 8 December 2025, it understood that the Defence Counsel had agreed to the transmission of a copy of Mr Banda's passport to the Registry.³⁴ Following several email exchanges on the matter, the Defence Counsel

³² Trial Chamber IV, "Order on matters arising from the status conference of 8 December 2025", 12 December 2025, ICC-02/05-03/09-758-Conf, para. 6.

³³ Defence, Defence Application, paras. 55.

³⁴ Defence Counsel, "Defence Request Pursuant to Regulation 83(4) of the Regulations of the Court" dated 15 January 2026, ICC-02/05-03/09-759-Conf-Exp, para. 37 – 44.

informed the Registry that this was not the case and that he would not transmit the travel document prior to any decision issued by the Chamber in its regard.³⁵

29. Following the said email exchanges and further to the Chamber's Order scheduling a status conference issued on 6 November 2025,³⁶ and subsequent orders rescheduling the status conference,³⁷ adding items to the agenda,³⁸ and on matters arising from the status conference,³⁹ the Registry would like to respectfully request guidance as to whether the Registry should continue to pursue [REDACTED] in advance from the deadlines set for the Legal Representative of Victims, Defence and the Office of the Prosecutor.⁴⁰ [REDACTED] to present any observation or propose any conditions in relation to the Defence's Request for Conversion⁴¹ and in relation to [REDACTED], if requested by the Chamber. If the Chamber is of the view that the Registry should continue with its efforts, the [REDACTED]. Should the Chamber decide that [REDACTED] at this stage, the Registry respectfully requests the Chamber's guidance as to which information may be communicated to [REDACTED] in this regard.

p.p.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 15 July 2026

At The Hague, the Netherlands

³⁵ *Ibid*, ICC-02/05-03/09-759-Conf-Exp-AnxG.

³⁶ Trial Chamber IV, "Order scheduling a status conference", 6 November 2025, ICC-02/05-03/09-749-Conf.

³⁷ Trial Chamber IV, "Order rescheduling a status conference", 14 November 2025, ICC-02/05-03/09-754-Conf.

³⁸ Trial Chamber IV, "Order adding items to the agenda for the status conference", 2 December 2025, ICC-02/05-03/09-757-Conf.

³⁹ Trial Chamber IV, "Order on matters arising from the status conference of 8 December 2025", 12 December 2025, ICC-02/05-03/09-758-Conf.

⁴⁰ Trial Chamber IV, "Order on matters arising from the status conference of 8 December 2025", 12 December 2025, ICC-02/05-03/09-758-Conf.

⁴¹ Defence Counsel, "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.