

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 16 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
with Confidential, *ex parte*, Annexes A-G, Defence and Registrar Only
Public Redacted Version of "Defence Request Pursuant to Regulation 83(4)
of the Regulations of the Court", filed on 15 January 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. Pursuant to Regulation 83(4) of the Regulations of the Court ('RoC'), the Defence for General Abdallah Banda Abakaer Nourain ('Defence') hereby requests review by Trial Chamber IV ('Chamber') of Counsel Support Sections ('CSS') decision of 25 November 2025 and the Registrar's approval of the decision and to order the Registry to allot proper and sufficient funding to the Defence for its operations until the Chamber renders its decisions on the topics discussed during the status conference. Specifically, the Defence requests the Chamber to order the Registry to pay current:
 - (a) Defence team members remuneration based on the Legal Aid Policy from 1 November 2025 until the Chamber renders its decisions on the status conference, which is Counsel Taku at step 4 remuneration, Co-Counsel [REDACTED] at step 3 remuneration and Case Manager [REDACTED] at step 4 remuneration or
 - (b) Defence team members hourly remuneration from 1 November 2025 until the Chamber renders its decisions on the status conference, which is Counsel Taku at €64.68/hr, Co-Counsel [REDACTED] at €53.99/hr and Case Manager [REDACTED] at €31.11/hr.
2. The Defence hereby states that for the time being, this request for basic operational funds is lower than what the Legal Aid Policy allows, and in no way represents a final request for funding. Should the case proceed to trial, the Defence expects the Registry to immediately release the basic operational funds plus additional medium- and long-term funds to allow the Defence to play catch-up in its preparations.
3. Finally, as the Defence is not being remunerated, it highlights that the schedule once stated by Counsel to be trial ready is a time frame based on its staff working full time with full complexity 1 remuneration and staff from December 2025 onwards. As that is not happening, the Defence can no longer guarantee its timeline outlined in its filing of 3 October 2025.¹ Such a timeline from opening statements to the first Prosecution witness would only be realistic if complexity level 3 remuneration was granted by the Registry.

¹ 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, para. 23(d) ('Defence Motion').

II. CONFIDENTIALITY

4. Pursuant to Regulation 23 *bis*(1) of the RoC, the Defence files this Request as CONFIDENTIAL, *ex parte*, Registrar only as it discusses issues related to the work-product and confidential/privileged communications of the Defence with the Registry and General Abdallah Banda Abakaer Nourain ('Client' or 'General Banda'). A confidential redacted version is filed concurrently. Annexes A-G shall remain CONFIDENTIAL, *ex parte*, Defence and Registrar only as they are internal work product generated explicitly for funding and should not be disclosed to any other party or participant.

III. PROCEDURAL SUMMARY

5. On 7 March 2011, Pre-Trial Chamber I confirmed charges against General Abdallah Banda.²
6. On 11 September 2014, the Chamber issued an arrest warrant for General Abdallah Banda.³
7. On 3 March 2015, the Appeals Chamber upheld the arrest warrant against General Abdallah Banda.⁴
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]
[REDACTED]
[REDACTED]⁵
10. [REDACTED]
[REDACTED]
11. On 19 July 2025, representatives from the Defence and Prosecution [REDACTED]
[REDACTED]

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 Email from Defence to CSS, *Banda Defence – Request for Assistance from the Government of the Republic of the Sudan*, sent on 23 May 2025 at 16:40 CET.

12. [REDACTED]
[REDACTED]
[REDACTED]
13. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
14. On 18 September 2025, representatives from the Defence and Prosecution held a brief meeting about the content of the pending request. The Prosecution told the Defence that it was still deciding whether to support the request.
15. On 3 October 2025, the Defence filed a motion to have the arrest warrant against General Abdallah Banda converted into a summons to appear.⁶
16. On 16 October 2025, the Office of the Prosecutor responded to the Motion.⁷
17. On 23 October 2025, the Defence requested the Chamber to invite the GoS to submit observations on the Motion.⁸
18. On 24 October 2025, the Chamber invited the GoS to submit observations on the Defence's Motion.⁹
19. On 4 November 2025, the Registry transmitted the observations from the GoS.¹⁰
20. On 6 November 2025, the Chamber order a status conference to be held on 18 November 2025 at 13:00 CET.¹¹ In the order, the Chamber requested to be notified of any other

⁶ See Defence Motion.

⁷ 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-Conf-Exp.

⁸ 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-Exp.

⁹ Trial Chamber IV, *Order inviting the competent authorities of the Republic of Sudan to provide observations*, ICC-02/05-03/09-746-Conf-Exp.

¹⁰ 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-Conf-Exp.

¹¹ Trial Chamber IV, *Order scheduling a status conference*, ICC-02/05-03/09-749-Conf-Exp.

topics which the parties or participants desire to be discussed and to notify the Chamber, parties and participants on or before 10 November 2025 of such a request.¹²

21. On 10 November 2025, the Defence requested that several items be added to the agenda for the 18 November 2025 status conference.¹³
22. On 12 November 2025, the Defence submitted a request for funding.¹⁴
23. On 14 November 2025, the Chamber issued an order changing the date of the status conference and invited the Legal Representatives of Victims to the status conference.¹⁵ The Chamber also reserved its decision on the items the Defence requested be added to the agenda for the status conference.¹⁶
24. On 14 November 2025, the Chamber ordered that 19 pleadings/decisions and four (4) associated annexes, along with and one (1) court transcript, be reclassified or have redacted versions filed.¹⁷
25. On 19 November 2025, the Defence supplemented its 12 November 2025 request for funding because of the change in the nature of the status conference.¹⁸
26. On 25 November 2025, Counsel Support Section granted the Defence a total sum of €12,000 for work conducted related to the status conference from 12 November 2025 to 9 December 2025.¹⁹
27. On 2 December 2025, the Chamber issued the *Order adding items to the agenda for the status conference*.²⁰ The Chamber decided not to add to the agenda issues related to funding for the Defence in preference for the Defence following the procedures set out in the RoC.²¹

¹² *Ibid*, para. 6.

¹³ Trial Chamber IV, *Defence Request for Additional Items for the Status Conference on 18 November 2025*, ICC-02/05-03/09-750-Conf-Exp.

¹⁴ See Confidential, *ex parte*, Annex A.

¹⁵ Trial Chamber IV, *Order rescheduling the status conference*, ICC-02/05-03/09-754-Conf.

¹⁶ *Ibid*, para. 8.

¹⁷ Trial Chamber IV, *Order on the re-classification and redaction of prior submissions, decisions and transcripts*, ICC-02/05-03/09-753-Conf (noting that two (2) of the documents are pleadings 751 and 752, which were not listed in paragraphs 9 and 10 of Prosecution filing 751-Conf).

¹⁸ See Confidential, *ex parte*, Annex B.

¹⁹ See Confidential, *ex parte*, Annex C (CSS/2025/714).

²⁰ Trial Chamber IV, *Order adding items to the agenda for the status conference*, ICC-02/05-03/09-757-Conf.

²¹ *Ibid*, para. 9.

28. On 5 December 2025, the Defence submitted a request for review to the Registrar of Counsel Support Section's decision on 25 November 2025, citing three specific grounds of appeal.²²
29. On 8 December 2025, the Chamber held the status conference. As expected, translation and interpretation issues were a key issue discussed during the status conference.
30. On 9 December 2025, Representatives from CSS, ODJS and LSS met with the Defence.
31. On 10 December 2025, [REDACTED]
[REDACTED]
32. On 23 December 2025, the Defence transmitted a request for funding based on different criteria to CSS.²³ The Defence clearly stated that it was not meant to usurp, override or replace the current appeal process happening because of the 25 November 2025 decision.
33. 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*." The Registrar rejected all three grounds of appeal of the Defence.²⁴

IV. SUBMISSIONS

34. The Defence hereby incorporates its arguments found in Confidential, *ex parte*, Annexes A, B and D. The Defence asserts that the Registrar's review was highly unreasonable, especially considering that the office was aware of the work stemming from the status conference.
35. The Defence deserves to be remunerated in a fair and just manner for the work performed in having its Client appear before the Chamber and work required which relates to the topics discussed at the confidential and *ex parte* status conferences.²⁵ What the Registry is doing has the clear effect of causing unnecessary delays and unjustified free labour.
36. During the 8 December 2025 status conference, the Chamber discussed several issues which have led to a work-load for the Defence. These issues, which cannot left behind

²² See Confidential, *ex parte*, Annex D.

²³ Email from Defence to CSS, *Defence Urgent Request for Funding*, sent 23 December 2025 at 23:53 CET.

²⁴ See Confidential, *ex parte*, Annex E.

²⁵ ICC-02/05-03/09-T-029-CONF-ENG CT and ICC-02/05-03/09-T-030-CONF-EXP-ENG ET.

until after a decision is rendered, require the attention of the Defence, and the Team should be remunerated for said work.

A. Confirmation of General Banda's Passport

37. During the 9 December 2025 meeting between the Registry and Defence, the Registry noted that the day before the Defence asserted that General Banda had a passport. The Registry wanted to know if the Defence had a copy of the passport, to which the Defence stated that it would be requesting a copy during its phone call with the Client after the meeting. During this meeting, the Defence did not make any undertaking to transmit a copy of the Client's passport data page to the Registry.
38. The Defence was unable to contact the Client for more than a few seconds. He was unaware of the timing of the telephone call, and asked that we send a message because of a poor internet signal in his location. The Defence sent a message that evening requesting a photograph of his passport data page and whether he would be comfortable using Sudanese Arabic instead of Zaghawan during any proceedings.
39. Following the message, the Defence received a communication on 12 December 2025, and transmitted it to the Registry for translation.²⁶ [REDACTED]
[REDACTED]
[REDACTED]
40. On 15 December 2025, the Defence received the translation of the 12 December 2025 audio files.²⁷ The Defence drafted a message to Client briefly explaining why the ICC needed a copy of his passport data page if the proceedings continued forward.²⁸ It also informed the Client that [REDACTED] would attempt to contact him again on 22 December 2025.²⁹ This took just over one (1) hour. No one on the Defence was remunerated for these activities.
41. On 19 December 2025, the Registry wrote an email inquiring whether the Defence had secured a copy of General Banda's passport.³⁰ The Registry committed an error of fact in this email by stating that the Defence undertook to give the Registry a copy of the passport

²⁶ Email from Defence to CSS, *D07 – Interpretation / Translation Request*, sent on 12 December 2025 at 08:20 CET.

²⁷ Email from CSS to Defence – *RE: D07 – Interpretation / Translation Request*, received on 15 December 2025 at 14:31 CET.

²⁸ Email from Defence to CSS, *D07 – Message for Translation – 15 Dec 2025*, sent on 15 December 2025 at 15:35 CET.

²⁹ *Ibid.*

³⁰ *See Confidential, ex parte*, Annex G, p. 7.

data page during the 8 December 2025 status conference.³¹ The Defence replied on the same day, noting that it sent him messages about it and that it would take a few days to get it.³² The Defence highlights that it categorically did not make an undertaking during the 8 December 2025 status conference to give a copy of the Client's passport data page to the Registry.

42. On 22 December 2025, the Defence spoke with the Client again and informed him of the procedures for securing a visa for travel requested by the ICC. He was informed that all visa requests for the ICC must originate from the ICC, and for that, the ICC must have a copy of his passport data page. The Defence went so far as to explain that even for staff members, defence team members and victim teams, the ICC must have a copy of their passport data page. The Client was assured that his passport data page and information would remain privileged with his Defence only until there is a need for the ICC to have a copy. [REDACTED]
[REDACTED]
43. On 23 December 2025, the Defence notified the Registry that it received a photograph of the Client's passport, and when the Chamber rendered a decision on the topics discussed during the status conference, it would transmit it to the Registry.³³ After receiving a reply with a slighting negative undertone, the Defence replied back to the Registry, noting that the Defence was not ordered to turn over the photograph of the passport data page to the Registry, but merely asked by the Chamber to ensure that the Client was in possession of valid international travel documents. Defence personnel spent three (3) hours for its activities on 22 and 23 December 2025.³⁴
44. On 13 January 2026, the Defence once again received an email containing gaslighting-like tactics.³⁵ The Defence once again had to read transcripts T-029-CONF and T-030-CONF-EXP to ensure that the Defence was correct and that the Registry was seriously misinformed as to what was said during the 8 December 2025 status conference because the Registry once again wrongly wrote that the Defence undertook to give the Client's

³¹ *Ibid.*

³² *Ibid.*, p. 6.

³³ *Ibid.*, p. 5.

³⁴ *Ibid.*, p. 4. The Defence notes that [REDACTED] spent 2.5 hours trying to contact the Client before finally speaking with him. [REDACTED] then draft a quick email on the 23rd after speaking with Counsel for ¼ of an hour (so, ½ hour total).

³⁵ Confidential, *ex parte*, Annex G, p. 3 at the bottom of the page (*noting* that this was the second time that the Registry falsely claimed that the Defence undertook to give a copy of its Client's passport to the Registry during the 8 December 2025 status conference).

passport to the Registry. The Defence once again had to advise the Registry that it was not under an obligation to send the Client's passport to the Registry, and that the Defence made no such undertaking during the 8 December 2025 status conference.³⁶ The Defence once again assured the Registry that once the Chamber rendered its decisions on the Defence's and Prosecution's motions, the Defence would be in a position to facilitate the Registry immediately. Defence personnel spent approximately three (3) hours researching, drafting and speaking on the telephone about this response to ensure accuracy of what was said during the status conference and in the email. No one is currently allowed to be remunerated for this work.

45. As noted during the status conference,³⁷ [REDACTED] no one was remunerated for this work after 9 December 2025. Furthermore, the Defence shall continue to contact the Client with bi-weekly updates, and more if the situation dictates. Because of [REDACTED] status, no one shall be remunerated for this necessary work.
46. Finally, to forgoe any possible doubt, the Defence attempted to use its monthly allocation of funds for telephone calls, which is two sessions of two hours each per month at Counsel's remuneration,³⁸ to pay its Case Manager, who was preparing reports on the telephone communications in April 2024 as she was on standby to listen to the communications for note-taking purposes.³⁹ The Registry refused this type of allotment of funds as she was not Counsel.⁴⁰ In essence, the Registry dictated how funds, which were allotted for a specific reason, were to be disbursed based solely on position and not on specific work performed, noting that her report were directly related to telephone communications with the purpose of attempting to have the Client appear before the Chamber.
47. The Defence requests the Chamber to overturn CSS's decision on remuneration and grant the Defence full remuneration as of 1 November 2025 until the Chamber renders its decision on the issues from the status conference. In the alternative, the Defence requests

³⁶ See Confidential *ex parte*, Annex G, p. 3 and ICC-02/05-03/09-T-029-CONF-ENG CT, p. 10, l. 21 to p. 11, l. 3.

³⁷ ICC-02/05-03/09-T-029-CONF-ENG CT, p. 4, lns 12-14.

³⁸ See Trial Chamber IV, *Defence Request Pursuant to Regulation 83(4) of the Regulations of the Registry* [sic], ICC-02/05-03/09-720-CONF-EXP, Confidential, *Ex Parte*, Annex 1, p. 3, par. 3.

³⁹ See Confidential, *ex parte*, Annex F.

⁴⁰ *Ibid*, p. 2.

the Chamber order the Registry to pay the Defence teams members an hourly rate based on the remuneration scales outlined in Table 8 of the Legal Aid Policy.

B. Drafting Summaries of the Reclassified Documents

48. During the status conference, the Defence informed the Chamber that the Defence would be drafting summaries of the recently reclassified documents.⁴¹ The Defence notes that there are 19 pleadings/decisions, four (4) associated annexes and one (1) transcript.⁴² The summarising of these to the Client is required by the Professional Code of Conduct for counsel at the ICC.⁴³
49. The Defence started this project **after** 9 December 2025. The Defence has finished three of the summaries. It is resuming the summaries tomorrow.
50. Under the current decision issued by CSS, and confirmed by the Registrar, the Defence is not being paid for conducting these activities. This cannot be allowed. The Defence appeals to the Chamber to not let this happen. These activities are vital to the Chamber's decision it shall render after all pleadings have been submitted on 2 April 2026. The Defence must be remunerated for work undertaken for this purpose.
51. The Defence requests the Chamber to overturn CSS's decision on remuneration and grant the current Defence team members full remuneration as of 1 November 2025 until the Chamber renders its decision on the issues from the status conference. In the alternative, the Defence requests the Chamber order the Registry to pay the Defence teams members an hourly rate based on the remuneration scales outlined in Table 8 of the Legal Aid Policy.

C. The Defence must Prepare for all Foreseeable Outcomes

52. When Cousnel Taku brought [REDACTED] the Defence, one of his concerns related to the fact that very little of the Defence's work-product and evidence was saved on the ICC internal systems. The project of uploading this material was slated for 2020, but because of the COVID-19 pandemic, it did not happen. At this same time

⁴¹ ICC-02/05-03/09-T-029-CONF-ENG CT, p 21, lns 11-21.

⁴² Trial Chamber IV, *Order on the re-classification and redaction of prior submissions, decisions and transcripts*, ICC-02/05-03/09-753-Conf (noting that two (2) of the documents are pleadings 751 and 752, which were not listed in paragraphs 9 and 10 of Prosecution filing 751-Conf).

⁴³ Code of Professional Conduct for counsel, [ICC-ASP/4/Res.1](#), Article 15(1).

though, the ICC was migrating away from the prior Ringtail system to the new Nuix discovery platform.

53. [REDACTED]
[REDACTED]
[REDACTED] The Defence sought to remedy this, but the Defence had its funding seriously reduced just after the Court began regular operations. Around this same time, the Defence was also in line for the transfer from Ringtail to Nuix, so it was a tenuous situation.
54. The Defence admits that [REDACTED]
[REDACTED] This would include witness statements, audio files, scholarly reports, intelligence reports, and similar types of material which are necessary for legal proceedings. The estimates that the Defence gave to the Chamber in the Defence Motion⁴⁴ allotted for its Case Manager to begin uploading material in an expedited manner with the help of other personnel helping when available. When the Defence submitted the Defence Motion on 3 October 2025, the Defence expected to start this exercise in December 2025, so long as the Office of the Prosecutor did not object to the Defence's motion. The Defence never expected the Registry to impede the Defence's activities in such a manner as it is doing now.
55. Furthermore, there are more menial tasks that the Defence must undertake to keep itself updated on specific aspects of the ICC. One notable issues involves the training currently being carried out by the ICT department related to the migration away from Microsoft Outlook and OneDrive to openDesk. Defence team members are attending the meetings so as to be well informed of the similarities and differences between the platforms as Microsoft platforms are being phased out. The Defence is not being remunerated for these important tutorial meetings.
56. Similarly, the Defence conducted a meeting with VWU by request of VWU on 10 December 2025. The Defence prepared for the meeting on both the 9th and the 10th, yet all actions taken after 9 December 2025 were not remunerated. While the VWU refrained from making any concrete suggestion on whether to contact witnesses, this is something that must be done to prepare for any possible proceedings. It would be illogical not to prepare for impending interviews if the scheduled suggested by the Defence in the

⁴⁴ Defence Motion, para. 23(d).

Defence Motion is to be kept. To be clear though, the Defence is not asking for funds to conduct interviews, merely funds to prepare for them.

57. The Defence requests the Chamber to overturn CSS's decision on remuneration and grant the current Defence team members full remuneration as of 1 November 2025 until the Chamber renders its decision on the issues from the status conference. In the alternative, the Defence requests the Chamber order the Registry to pay the Defence teams members an hourly rate based on the remuneration scales outlined in Table 8 of the Legal Aid Policy.

D. Submission of an Action Plan

58. To ensure that the Defence activities would fall within the scope of the issues outlined in the 8 December 2025 status conference and written herein, the Defence offers to supply the Registry an action plan detailing the Defence's best approximation⁴⁵ of it works to be conducted until the Chamber renders its decision on the issues discussed during the status conference and mentioned herein. The Defence undertakes to supply the Registry with a detailed action plan within three (3) working days of any decision render by the Chamber granting remuneration for the current Defence team members.

V. REQUESTED RELIEF

59. The Defence for General Abdallah Banda Abakaer Nourain requests Trial Chamber IV to quash the 25 November 2025 decision on the Defence's remuneration and order the Registry to pay the current Defence team members:
 - (a) Remuneration based on the Legal Aid Policy from 1 November 2025 until the Chamber renders its decisions on the status conference, which is Counsel Taku at step 4 remuneration, Co-Counsel ██████ at step 3 remuneration and Case Manager ██████ at step 4 remuneration or, in the alternative,
 - (b) Hourly remuneration from 1 November 2025 until the Chamber renders its decisions on the status conference, which is Counsel Taku at €64.68/hr, Co-Counsel ██████ at €53.99/hr and Case Manager ██████ at €31.11/hr.

⁴⁵ The Defence cannot foresee every possible duty it will carry out, but it will try to give as much information as possible.

Respectfully submitted,



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

Dated this 16th day of July, 2026
At The Hague, Netherlands