

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 23 October 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 "Prosecution Request Pursuant to Regulation 35(2)",
ICC-02/05-03/09-613-Conf, dated 30 September 2014**

Source: Office of the Prosecutor

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

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Introduction

1. The Prosecution hereby requests the Chamber, pursuant to Regulation 35(2) of the Regulations of the Court ("RoC"), to vary the Prosecution's deadline for responding to the Defence request¹ for the institution of proceedings pursuant to Article 87(7) of the Rome Statute ("Article 87(7) Request"). The Prosecution requests that the deadline be extended until three working days after the Defence confirmation of the Accused's intention to appear, due by 6 October 2014, which should clarify whether the assistance currently sought from the Government of Sudan ("GoS") is in fact required.

Confidentiality

2. This document is designated confidential because it refers to orders and submissions designated as such.²

Submissions

3. On 9 September 2014, the Defence requested that the Trial Chamber institute proceedings pursuant to Article 87(7) against the GoS.³ The Defence cited the cooperation request issued to the GoS,⁴ and stated that the trial cannot commence on 18 November 2014 without "the GoS providing the requested necessary assistance".⁵ Further, the Defence asserted that "[t]he only impediment to such a trial commencing [...] is the lack of cooperation by the GoS in facilitating the appearance of their citizen, Mr. Banda, before the Court."⁶ [REDACTED].⁷

¹ ICC-02/05-03/09-605-Conf.

² Regulation 23*bis* of the RoC.

³ ICC-02/05-03/09-605-Conf.

⁴ ICC-02/05-03/09-605-Conf, para.1.

⁵ ICC-02/05-03/09-605-Conf, para.3.

⁶ ICC-02/05-03/09-605-Conf, para.29.

⁷ [REDACTED].

4. However, on 17 September 2014, the Defence stated that the Accused does not require the assistance of the GoS on security and logistical matters inside Sudan⁸ and “has taken upon himself” to make arrangements “to safely and freely depart Sudan”, absent assistance of the GoS.⁹ As a result, the impact of the GoS refusal to comply is now in question.
5. On 22 September 2014, the Prosecution noted the shift in the Defence’s position in the Prosecution response to the Defence application for leave to appeal the 11 September 2014 arrest warrant decision or for reconsideration of the same (“Prosecution Response”).¹⁰ On 24 September 2014, the Defence sought leave to reply to the Prosecution Response.¹¹ On 26 September 2014, the Chamber granted leave to reply, and ordered the Defence to confirm in a “straight forward and unequivocal” manner whether the Accused will appear for his trial if, *inter alia*, the cooperation of the GoS in facilitating Mr Banda’s appearance before the Court is not forthcoming.¹² The Chamber ordered the Defence to make these submissions by 6 October 2014.¹³
6. The above Defence submissions ordered by the Chamber will inform the Prosecution’s response to the Article 87(7) Request. Once the Defence files the same, the Prosecution will be better placed to respond to the Defence’s assertion that the assistance sought from the GoS is “truly essential” and that the trial cannot begin without it.¹⁴
7. However, the Prosecution’s deadline for responding to the Article 87(7) Request is 1 October 2014. Since the Prosecution will not be in a position to respond fully to the Article 87(7) Request until it has received the Defence’s

⁸ ICC-02/05-03/09-608-Conf-Exp, para. 32.

⁹ ICC-02/05-03/09-608-Conf-Exp, para. 32.

¹⁰ ICC-02/05-03/09-609-Conf-Exp.

¹¹ ICC-02/05-03/09-611-Conf-Exp.

¹² ICC-02/05-03/09-612-Conf, paras.6-7.

¹³ ICC-02/05-03/09-612-Conf, para.7.

¹⁴ ICC-02/05-03/09-605-Conf, para. 27; *see also* paras. 3, 24, 29.

reply, good cause exists for varying the Prosecution deadline pursuant to Regulation 35(2) of the RoC.

Conclusion

8. For the foregoing reasons, the Prosecution requests that the Chamber extend its deadline for responding to the Article 87(7) Request until three working days after the filing of the Defence's reply.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', with a large, stylized flourish on the left side.

Mame Mandiaye Niang, Acting Prosecutor

Dated this 23rd day of October 2026

At The Hague, The Netherlands