



Original: English

No.: ICC-02/05-03/09
Date: 16 January 2015

TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Silvia Fernández de Gurmendi
Judge Chile Eboe-Osuji

SITUATION IN DARFUR, SUDAN

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

Public

**Request to the Republic of the Sudan for the arrest and surrender of
Abdallah Banda Abakaer Nourain**

Source: The Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Julian Nicholls

Counsel for the Defence

Mr Karim A.A. Khan

Mr David Hooper

Legal Representatives of the Victims

Ms Hélène Cissé

Mr Jens Dieckmann

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

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

**Other
Appeals Chamber**

THE REGISTRAR of the International Criminal Court (“the Court”);

NOTING the referral of the situation in Darfur, Sudan to the Prosecutor of the Court since 1 July 2002 by the United Nations Security Council in its Resolution S/RES/1593 of 31 March 2005 (“the Resolution 1593”);¹

NOTING the *Summons to appear for Abdallah Banda Abakaer Nourain* (“Mr Banda”) issued on 27 August 2009 (the “Summons to appear”);²

NOTING the *Corrigendum to the decision on the confirmation of charges* dated 7 March 2011 (the “Decision of 7 March 2011”);³

NOTING the *Public Redacted Decision as to the Further Steps for the Trial Proceedings* dated 14 July 2014;⁴

NOTING the *Corrected version of the “Request for assistance to the Republic of the Sudan”*(ICC-02/05-03/09-593) dated 31 July 2014;⁵

NOTING the *Warrant of arrest for Abdallah Banda Abakaer Nourain* (the “Arrest Warrant”) issued by Trial Chamber IV (the “Chamber”) on 11 September 2014;⁶

NOTING the *Public Redacted Version of “Defence Application for Leave to Appeal the Decision on “Warrant of arrest for Abdallah Banda Abakaer Nourain” and in the alternative Request for Reconsideration”* submitted on 18 September 2014;⁷

¹ Resolution 1593 (2005) Adopted by the Security Council at its 5158th meeting on 31 March 2005.

² ICC-02/05-03/09-3.

³ ICC-02/05-03/09-121-Corr-Red.

⁴ ICC-02/05-03/09-590-Red.

⁵ ICC-02/05-03/09-593-Corr.

⁶ ICC-02/05-03/09-606.

⁷ ICC-02/05-03/09-608-Red.

NOTING the *Decision on defense application for leave to appeal the decision on 'Warrant of arrest for Abdallah Banda Abakaer Nourain'* and, in the alternative, request for reconsideration issued on 19 December 2014;⁸

NOTING Articles 57 to 60, 67, 87, 89, 91, 97 of the Rome Statute ("the Statute"), Rules 117, 176(2), 184 and 187 of the Rules of Procedure and Evidence ("the Rules");

CONSIDERING that the United Nations Security Council decided that "the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution" and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urged "all States and concerned regional and other international organizations to cooperate fully";⁹

CONSIDERING the obligations of the Government of the Republic of the Sudan, pursuant to the Resolution 1593, to cooperate fully with and provide any necessary assistance to the Court;

CONSIDERING that in the Decision of 7 March 2011, the Pre-Trial Chamber I, stating the present facts and circumstances described in the charges against the accused, found that there are substantial grounds to believe that Mr Banda is criminally responsible as co-perpetrator within the meaning of article 25(3)(a) of the Statute for the following crimes as listed in the Summons to appear:¹⁰

- i. "the war crime of violence to life, in the form of murder, whether committed or attempted, within the meaning of article 8(2)(c)(i) of the Statute;

⁸ ICC-02/05-03/09-619-Red.

⁹ Resolution S/RES/1593 of 31 March 2005, para. 2.

¹⁰ ICC-02/05-03/09-121-Corr-Red, para. 162-163. The Charges including the factual background of the case are set out, *inter alia*, at pages 4 to 7.

- ii. the war crime of intentionally directing attacks against personnel, installations, materials, units and vehicles involved in peacekeeping mission, within the meaning of article 8(2)(e)(iii) of the Statute;
- iii. the war crime of pillaging, within the meaning of article 8(2)(e)(v) of the Statute";¹¹

CONSIDERING that in the Arrest Warrant, the Chamber "finds that the summons to appear is no longer sufficient to ensure Mr Banda's appearance at trial" and therefore "issues a warrant of arrest for Abdallah Banda Abakaer Nourain";¹²

CONSIDERING that article 89(1) of the Rome statute provides that the Court may transmit a request for the arrest and surrender of a person to any State on the territory of which that person may be found;

CONSIDERING that the Chamber requested the Registry to "(i) prepare a request for cooperation seeking the arrest and surrender of Mr Banda pursuant to Articles 89(1) and 91 of the Statute and Rule 187 of the Rules; (ii) transmit, in consultation and coordination with the Prosecution, the request to the competent authorities of Sudan and any other State, as may be appropriate in accordance with Rule 176(2) of the Rules";¹³

¹¹ ICC-02/05-03/09-3, para. 19.

¹² ICC-02/05-03/09-606, para. 26(ii) and (iii).

¹³ ICC-02/05-03/09-606, para. 26 (iv).

REQUESTS the Sudanese authorities to arrest and surrender the following person to the Court:

Name: Abdallah Banda Abakaer Nourain

Date of birth: 1963

Place of birth: Tina, North Darfur

Nationality: Sudanese

Reportedly acting as: Chief Commandant of the movement for Justice and Equality, or highest ranking military Commander of the Liberation and Justice Movement, or Leader of the Liberation and Justice Movement, or Deputy Commissioner of Security Arrangement for Peace Agreement – African Union Ceasefire Commission, or Deputy Commissioner of the Darfur Regional Authority Commission for Security Arrangements, or Deputy Commissioner of the Commission for Security Arrangements of the Regional Authorities of Al Fasher/Darfur

Probable location: Darfur, Sudan

Description: picture attached

Charges: there are substantial grounds to believe that Mr Banda is criminally responsible as co-perpetrator within the meaning of article 25(3)(a) of the Statute for the following crimes as listed in the Summons to appear:

- i. the war crime of violence to life, in the form of murder, whether committed or attempted, within the meaning of article 8(2)(c)(i) of the Statute;
- ii. the war crime of intentionally directing attacks against personnel, installations, materials, units and vehicles involved in a peacekeeping mission, within the meaning of article 8(2)(e)(iii) of the Statute;
- iii. the war crime of pillaging, within the meaning of article 8(2)(e)(v) of the Statute.

REQUESTS the Sudanese authorities to comply with the procedures provided for in articles 59, 89(2) and 89(4) of the Statute and rule 117 of the Rules;

REQUESTS that all appropriate measures are taken to ensure the safety of Mr Banda until his final surrender to the Registrar of the Court;

REQUESTS the Sudanese authorities to notify the Court of any application made by Mr Banda under Articles 59(3) and 89(2) of the Statute;

REQUESTS, pursuant to Article 87(4) of the Rome Statute, that any information that is made available with respect to this request be provided and handled in a manner that protects the safety and physical or psychological well-being of any victims, potential witnesses and their families;

REQUESTS the Sudanese authorities to inform the Court, pursuant to Article 97 of the Statute, of any problem which may impede or prevent the execution of this request;

REQUESTS the Sudanese authorities to immediately inform the Registry when the person sought by the Court is available for surrender pursuant to Rule 184 of the Rules;

ATTACHES to this request, in accordance with Articles 87(2) and 91(2) of the Statute and Rule 187(1) of the Rules, the following documents:

- A picture of Mr Banda;
- A copy of the relevant provisions of the Statute and the Rules in English, Arabic and Zaghawa for servicing to Mr Banda by the Sudanese authorities; and
- A copy of the Arrest Warrant dated 11 September 2014 in Zaghawa, the language which Mr Banda fully understands and speaks, for servicing to Mr Banda by the Sudanese authorities.



Marc Dubuisson, Director of the Division of Court Services
On behalf of
Herman von Hebel, Registrar

Dated this 16 January 2015

At The Hague, The Netherlands