

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 27 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's Observations on the Registry filing on arrangements for the execution of Second Decision on the Prosecutor's Application under Article 58", ICC-02/05-03/09-28-US, dated 4 March 2010

Source: Office of the Prosecutor

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

☒ 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

Oswaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

Background

1. On 27 August 2009, the Single Judge issued summonses in respect of Abdallah Banda and Saleh Jerbo to appear before the Court on 17 November 2009.¹
2. On 23 October 2009, the Registrar filed the “Report of the Registrar on Execution of Second Decision on the Prosecutor’s Application under Article 58 (the “Report”).²
3. On 26 October 2009, the Prosecution filed its “Prosecution’s Response to the Report of the Registrar on the execution of Second Decision on the Prosecutor’s Application under Article 58”³ (“26 October Filing”).
4. On 4 November 2009, the Single Judge issued “Decision Scheduling a Hearing on 9 November 2009”⁴, in order “*to discuss the respective arrangements which might be put in place by the Registrar and the Prosecutor for the purposes of such implementation*”⁵.
5. On 9 November 2009, the Prosecution filed its “Prosecution’s Status report on arrangements made for the execution of Second Decision on the Prosecutor’s Application under Article 58”⁶ in order to update both the Chamber and the Registry on the current arrangements being made to facilitate the initial appearance of the two suspects.

¹ ICC-02/05-03/09-2-US and ICC-02/05-03/09-3-US

² ICC-02/05-03/09-6-US

³ ICC-02/05-03/09-7-US

⁴ ICC-02/05-03/09-8-US

⁵ ICC-02/05-03/09-8-US at page 4

⁶ ICC-02/05-03/09-9-US

6. During the hearing of 9 November 2009, the Prosecution informed the Chamber that it planned to travel [REDACTED], to reach the intermediaries [REDACTED] to secure more information on the organization of the voluntary appearance of the two named individuals.
7. On 23 December 2009, 5 January, 11 January and 19 January 2010, respectively, the Prosecution filed updates on the current arrangements being made to facilitate the initial appearance of the two suspects.⁷
8. On 22 January 2010, the Registry filed an Information report on the execution of Second Decision on the Prosecutor's application under Article 58.⁸ On 25 January 2010, Pre-Trial Chamber I issued a decision, requesting the Prosecutor to submit observations on the Registrar's Information report by January 26 2010 at 12.00.⁹ On 26 January 2010, the Prosecution filed its update, including observations on the Registrar's report, and promised an additional update on 29 January 2010.¹⁰
9. On 29 January 2010, the Prosecution filed an update, requesting a postponement of the 3 February 2010 initial appearance date because of difficulties the two individuals summoned to appear have been experiencing in travelling out of Darfur.¹¹ The Prosecution informed the Registry of the situation and the anticipated filing by a phone conversation on 28 January 2010 [REDACTED]. The Registry also submitted an update on 29 January 2010.¹²

⁷ ICC-02/05-03/09-12-US; ICC-02/05-03/09-13-US; ICC-02/05-03/09-14-US; ICC-02/05-03/09-15-US.

⁸ ICC-02/05-03/09-16-US-Exp 22-01-2010

⁹ ICC-02/05-03/09-17-US

¹⁰ ICC-02/05-03/09-18-US

¹¹ ICC-02/05-03/09-21-US

¹² ICC-02/05-03/09-22-US

10. On 1 February 2010, the Chamber issued a decision cancelling the 3 February 2010 initial appearance and scheduling an ex parte hearing to take place on 3 February 2010 with the Prosecution and the Registry to discuss the situation.¹³
11. On 3 February 2010, at the conclusion of the hearing, the Chamber requested the Prosecution to submit a final status report, no later than 12.00 on 12 February 2010, with an update on the arrangements and logistics, in order to allow the Chamber to set the date for the initial appearance.
12. On 12 February 2010, the Prosecution filed the requested Report on the arrangements for the execution of Second Decision.¹⁴
13. On 19 February 2010, the Registry filed its “Observations of the Registry on the report of the Office of the Prosecutor dated 12 February 2010” (“Registry’s Observations”).¹⁵
14. The Prosecution submits in this Filing its observations on the Registry document referred to in paragraph 13 above.

Current Status of Arrangements for the Implementation of the Chamber’s Decision

a) Saleh Jerbo

15. [REDACTED].

16. [REDACTED].

¹³ ICC-02/05-03/09-23-US

¹⁴ ICC-02/05-03/09-26-US

¹⁵ ICC-02/05-03/09-27-US

17. [REDACTED].

18. [REDACTED].

19. [REDACTED].

20. [REDACTED].

21. [REDACTED].

b) Abdallah Banda

22. [REDACTED].

23. [REDACTED].

24. [REDACTED].

25. The intermediary indicated that he continues to be in contact with the counsel appointed by the Registry and that he and his colleagues have requested the counsel to file updates with the Pre-Trial Chamber to demonstrate their efforts to facilitate Mr. Banda's travel to The Hague.

26. [REDACTED].

27. [REDACTED].

28. [REDACTED].

Cooperation of third parties

29. [REDACTED].

30. [REDACTED].

31. The Prosecution has endeavored to keep the Registry updated on all aspects of its effort to facilitate voluntary appearances of Mr. Jerbo and Mr. Banda, in fact treating them as separate cases and not anticipating necessarily that their individual circumstances will permit them to appear at the same time. The Prosecution will continue to keep the Registry updated on all of its activities in this regard.

Conclusion

32. During their [REDACTED] contacts with the Prosecution the intermediaries of Mr. Jerbo and Mr. Banda reiterated their willingness to appear before the Court and their logistic difficulties to travel to The Hague. The Prosecution remains convinced of their willingness to appear before the Court.

33. The Prosecution believes that with the additional time taken, the logistical obstacles hampering the suspects from appearing before the Court are nearly surmounted. The Prosecution continues to share all available information with the Registry, but due to the sensitive nature of the information, would suggest that the Prosecution continues to handle the matter of the suspects' extraction from Darfur.

34. With the Chamber's leave, the Prosecution will continue to provide any further additional information that can assist in the appearance of the two suspects, with the hope that they can appear as soon as possible.

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

Mame Mandiaye Niang, Acting Prosecutor

Dated this 27th day of October 2026

At The Hague, The Netherlands