

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 29 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 Application for Redactions
Pursuant to rules 81(2) and 81(4) of the Rules of Procedure and Evidence", ICC-
02/05-03/09-54-Conf-Exp, dated 20 July 2010**

Source: Office of the Prosecutor

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Introduction

1. In compliance with the Pre-Trial Chamber I's "Decision on issues relating to disclosure"¹ of 29 June 2010, and further to the Prosecution's submissions at the Status Conference of 13 July 2010², the Prosecution respectfully submits its application for redactions ("the Application") pursuant to Rules 81(2) and 81(4) of the Rules of Procedure and Evidence ("Rules").

Request for Confidentiality

2. The Prosecution submits this request and its annexes "Confidential, *Ex Parte*, available to the Prosecutor and the Victims and Witnesses Unit Only" because they relate to material that is currently confidential and *Ex Parte*, and depict information relating to the identities of witnesses. A public redacted version of this Application or a public note will be filed as soon as practicable.

Prosecution's Request

3. The Prosecutions request relates to statements of two categories of witnesses. In the first category are witnesses whose statements the Prosecution relied upon and disclosed to the Defence in the *Prosecutor v Abu Garda*. In that case, this Chamber authorized redactions to certain information contained in the statements. Those statements have already been disclosed to the Defence pursuant to the Chamber's Decision of 29 June 2010, however the witnesses provided further statements to the Prosecution which were not used in the *Abu Garda* case and have not yet been disclosed to the Defence in the instant case. The Prosecution is seeking redactions to these further statements along the same lines as those already granted by the Chamber. The second category relates to witnesses whose statements were not previously relied upon by the Prosecution or disclosed to the Defence.³ The Prosecution is requesting redactions to statements in this category for the first time.

¹ ICC-02/05-03/09-49 at para. 5.

² ICC-02/05-03/09-T-6-ENG ET WT, page 4, lines 9-10. Although the Prosecution indicated during the Hearing that it proposed to submit six statements to the Chamber for redactions, it is now submitting five. This is because it has been unable to obtain the consent of one of the witnesses for his identity to be disclosed to the Defence within this time period. As soon as his consent has been obtained, the Prosecution will submit his statement under a separate filing.

³ The Prosecution however relied on a summary for one of these witnesses ([REDACTED] - DAR-OTP-WWWW-0442) in the *Abu Garda* case. That summary has been disclosed to the Defence in the instant case. The Prosecution now intends to rely upon the full transcript, and the redactions being sought are to the transcript.

The Scope of Redactions Sought and Legal Basis

4. The scope of the redactions sought relates, *inter alia*, to:
 - i. Information specifically affecting ongoing or further investigations, pursuant to Rule 81(2) of the Rules. In this category, the Prosecution seeks redactions to the following information:
 - a. the exact location(s) at which the Prosecution has conducted interviews with its witnesses (where a specific address or description is provided);
 - b. the names or other identifying information of OTP investigators⁴ and interpreters, given their role in the investigations;

and
 - ii. Information specifically relating to personal security, dignity and privacy of witnesses or other persons who may be at risk on account of the activities of the Court, pursuant to Rule 81(4) of the Rules. In this category, the Prosecution seeks redactions to the following information:
 - a. the identity of family members of witnesses
 - b. locations of the residence of witnesses and their family members.

Factual basis for the redactions

5. It is the Prosecution's responsibility to take appropriate measures to ensure effective investigations, and in doing so, take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.⁵ Against this background, the Prosecution has assessed the general and particular security situation of each of the witnesses whose statements are attached and has concluded that the risks they face can be mitigated and managed should their identities be disclosed to the Suspects at this stage. The Prosecution will continue to monitor the security situation of each witness and promptly inform the Chamber of any change in their security status.

⁴Conversely however, where OTP Trial Lawyers or Associate Trial Lawyers have participated in interviews, the Prosecution has not sought redactions to their names as their identities are already in the public domain and known to the Suspects.

⁵ Articles 54(1)(b) of the Statute read in conjunction with Article 68(1) of the Statute.

Organisation of the Materials being Submitted

6. The Prosecution herewith submits to the Pre-Trial Chamber the following witness statements (and annexes thereto) for which redactions are being sought, together with an accompanying chart for each statement setting out both the specific information sought to be redacted and the justification for the redaction sought:

a The First Category of Statements

7. The Chamber has already authorised redactions to initial statements of these witnesses in the *Abu Garda* case. The witnesses subsequently provided further statements to the Prosecution for which redactions are now being sought along the lines of those granted previously:
- i. [REDACTED] (DAR-OTP-WWWW-0315) (Second Statement ERN: DAR-OTP-0174-0334) (Annex A);
 - ii. [REDACTED] (DAR-OTP-WWWW-0355) (Second Statement ERN: DAR-OTP-0174-0306) (Annex B);
 - iii. [REDACTED] (Second Statement: DAR-OTP-WWWW-0446) (ERN: DAR-OTP-0176-0018) (Annex C)

b The Second Category of Statements

8. The statements in this category were not relied upon by the Prosecution in the *Abu Garda* case and have not been disclosed to the Defence. Neither has the Prosecution previously applied for redactions in respect of statements of these witnesses.⁶
- i [REDACTED] (DAR-OTP-WWWW-0439) (ERN: DAR-OTP-0175 0002) (Annex D);
 - ii [REDACTED]⁷ (DAR-OTP-WWWW-0442) (ERN: DAR-OTP-0172-0165 through 0614) (Annex E);

⁶ In the *Abu Garda* case, the Chamber authorised redactions to the name and other identifying information relating to [REDACTED] (DAR-OTP-WWWW-0439) and [REDACTED] (DAR-OTP-WWWW-0442), pursuant to Rule 81(2) of the Rules (See: ICC-02/05-02/09-51+Conf-Exp-Anx1 and ICC-02/05-02/09-85+Conf-Exp-Anx1). At that stage, the redactions were sought and granted because the Prosecution was still in the process of arranging interviews with these individuals. They have since been interviewed and provided Statements to the OTP. The Prosecution has assessed that there are no security risks to them if their identity were to be disclosed to the Defence. Accordingly, the Prosecution is not seeking redactions to their names or other identifying information in their statements. The Prosecution will therefore be filing separately a further application requesting a variation of the Protective Measures previously ordered by the Chamber.

⁷ The Prosecution already disclosed a Summary of this witness's interview to the defence on 8 July 2010, because it formed part of the incriminatory material previously disclosed and relied upon in the *Prosecutor v Abu Garda*. In that case the Prosecutor relied on the summary because the interview had not been transcribed. It now intends to rely on the full transcript.

9. To assist the Pre-Trial Chamber I in its review of the proposed redactions, the Chart attached to each statement contains: (i) each proposed redaction by page number; and (ii) the corresponding rule justifying the proposed redaction.

10. The Prosecution has also colour-coded each proposed redaction as follows:

- (i) Blue represents proposed redactions pursuant to Rule 81(2) of the Rules that relate exclusively to further and/or ongoing investigation; and
- (ii) Red represents proposed redactions pursuant to Rule 81(4) of the Rules and Articles 54(3)f of the Statute, to protect the safety of witnesses and victims, members of their families and other persons at risk on account of activities of the Court.

Justification for the Redactions Requested

11. The justification for each of the redactions sought is contained in the Chart attached to each statement.

Necessity for Redactions and Impact on Rights of the Suspects

12. The Prosecution submits that these redactions are necessary to protect the safety and security and, where appropriate, the privacy of the persons in respect of whom they are being sought. There is no less intrusive alternative measure that can be taken to avoid the risks mentioned in the table. Additionally, the requested redactions are not prejudicial to or inconsistent with the rights of the Suspects to a fair and impartial trial. The jurisprudence of the Appeals Chamber also supports the use of redactions authorized pursuant to Rules 81(2) and 81(4) as a means to reduce risks.⁸

⁸ ICC-01/04-01/07-475 *Prosecutor v. Katanga*, “Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements” at para. 75.

Request

13. For the reasons set forth above, the Prosecution respectfully requests the Single Judge to authorize the redactions proposed in the witness statements and accompanying annexes submitted with this Application.

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 29th day of October 2026

At The Hague, The Netherlands