



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 for the arrest and surrender of Abdallah Banda Abakaer Nourain  
addressed to States that are not parties to the Rome Statute**

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”);<sup>1</sup>

**NOTING** the *Summons to appear for Abdallah Banda Abakaer Nourain* (“Mr. Banda”) issued by Pre-Trial Chamber I, on 27 August 2009 (the “Summons to appear”);<sup>2</sup>

**NOTING** the *Corrigendum to the decision on the confirmation of charges* issued by Pre-Trial Chamber I, dated 7 March 2011 (the “Decision of 7 March 2011”);<sup>3</sup>

**NOTING** the *Public Redacted Decision as to the Further Steps for the Trial Proceedings* issued by Trial Chamber IV (the “Chamber”), dated 14 July 2014;<sup>4</sup>

**NOTING** the *Warrant of arrest for Abdallah Banda Abakaer Nourain* (the “Arrest Warrant”) issued by the Chamber on 11 September 2014;<sup>5</sup>

**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;<sup>6</sup>

**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 by the Chamber on 19 December 2014;<sup>7</sup>

---

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

<sup>2</sup> ICC-02/05-03/09-3.

<sup>3</sup> ICC-02/05-03/09-121-Corr-Red.

<sup>4</sup> ICC-02/05-03/09-590-Red.

<sup>5</sup> ICC-02/05-03/09-606.

<sup>6</sup> ICC-02/05-03/09-608-Red.

<sup>7</sup> ICC-02/05-03/09-619-Red.

**NOTING** Articles 57 to 60, 67, 87(5)(a), 89(1), 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 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”;<sup>8</sup>

**CONSIDERING** that in the Decision of 7 March 2011, 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:<sup>9</sup>

- 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 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”;<sup>10</sup>

**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”;<sup>11</sup>

<sup>8</sup> Resolution S/RES/1593 of 31 March 2005, para. 2.

<sup>9</sup> 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.

<sup>10</sup> ICC-02/05-03/09-3, para. 19.

<sup>11</sup> ICC-02/05-03/09-606, para. 26(ii) and (iii).

**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”;<sup>12</sup>

---

<sup>12</sup> ICC-02/05-03/09-606, para. 26 (iv).

**INVITES** the Non States Parties to the Rome Statute identified by the Registry in coordination with the Office of the Prosecutor as appropriate for the implementation of the present request, excluding the Republic of the Sudan for which a separate request exists (the “Requested States”), to arrest and surrender, the following person to the Court in the event that he enters their territory:

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, and/or highest ranking military Commander of the Liberation and Justice Movement, and/or Leader of the Liberation and Justice Movement, and/or Deputy Commissioner of Security Arrangement for Peace Agreement – African Union Ceasefire Commission, and/or Deputy Commissioner of the Darfur Regional Authority Commission for Security Arrangements, and/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.

**INVITES** the Requested States to comply with the procedures provided for in articles 59, 89(2) and 89(4) of the Statute and rule 117 of the Rules;

**INVITES** the Requested States to take all appropriate measures to ensure the safety of Mr Banda until his final surrender to the Registrar of the Court;

**INVITES** the Requested States to notify the Court of any application made by Mr Banda under Articles 59(3) and 89(2) of the Statute;

**INVITES** the Requested States, pursuant to Article 87(4) of the Rome Statute, to ensure 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;

**INVITES** the Requested States to inform the Court, pursuant to Article 97 of the Statute, of any problem which may impede or prevent the execution of this request;

**INVITES** the Requested States 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 the language of the Requested States and in Zaghawa, the language which Mr Banda fully understands and speaks, for servicing to the latter by the relevant national 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 the latter by the relevant national 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