

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 23 October 2014

TRIAL CHAMBER IV

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

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF

THE PROSECUTOR v.

ABDALLAH BANDA ABAKAER NOURAIN

Public document

Public redacted version of "Prosecution Response to 'Defence Submissions pursuant to *Decision subsequent to the status conference of 7 April (ICC-02/05-03/09-553-Conf)*'" filed on 15 April 2014 (ICC-02/05-03/09-562-Conf)

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

Ms. Fatou Bensouda, Prosecutor

Mr. James Stewart, Deputy Prosecutor

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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

Mr. Herman von Hebel

Deputy Registrar

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 10 April 2014, the Trial Chamber issued its “Decision subsequent to the status conference of 7 April 2014” (“Decision”). In the Decision, the Trial Chamber ordered the Defence to:
 - i) [REDACTED];
 - ii) [REDACTED]; and
 - iii) [REDACTED].¹
2. The Defence submitted its response on 14 April 2014.² [REDACTED], the Trial Chamber’s first question was not answered – namely, whether Mr Banda will appear for his trial, scheduled to commence on 5 May 2014, [REDACTED].
3. In the absence of a clear and unambiguous answer to the Chamber’s question regarding the Accused’s compliance with the summons to appear at his trial – a pre-requisite for the commencement of trial on 5 May 2014 – it would be inefficient and disruptive to the lives and livelihoods of witnesses to embark on the logistical activities required to ensure their appearance in The Hague.

¹ ICC-02/05-03/09-553-Conf, para.14.

² *Defence submissions pursuant to “Decision subsequent to the status conference of 7 April 2014 ”(ICC-02/05-03/09-553-Conf) “ - ICC-02/05-03/09-560-Conf (Defence submissions).*

4. Given the Accused's failure to provide the Chamber with the clarification it sought, and in light of the Court's duty to take measures to protect the well-being of witnesses pursuant to Article 68, the Prosecution proposes not to start its preparations to bring its witnesses to The Hague until such time as there is confirmation, either by his presence in The Hague, or otherwise, that the Accused will appear for his trial.



Fatou Bensouda
Prosecutor

Dated this 23rd day of October 2014

At The Hague, The Netherlands