

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20

Date: 22 July 2026

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

IN THE CASE OF

THE PROSECUTOR v. ALI MUHAMMAD ALI ABD-AL-RAHMAN

(‘ALI KUSHAYB’)

Public

Redacted version of “Registry’s observations on the ‘*Demande de Report de la Date de Reprise de la Présentation de la Défense*’ (ICC-02/05-01/20-1048-Conf)”, 4 January 2024, ICC-02/05-01/20-1051-Conf

Source: Registry

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

Mr Osvaldo Zavala Giler

☒ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. Introduction

1. Pursuant to Trial Chamber I's ("Chamber") instructions issued by way of emails dated 29 December 2023,¹ the Registry hereby files its observations on the "*Demande de Report de la Date de Reprise de la Présentation de la Défense*" ("Defence Request").²

II. Classification

2. Pursuant to regulation 23 *bis*(1)(2) of the Regulations of the Court, the present observations are classified as confidential, in line with the classification of the Defence Request and in light of the Registry's communications with the Sudanese authorities.

III. Applicable Law

3. The following provisions and legal texts are of particular relevance to the present submissions: the United Nations Security Council Resolution 1593 (2005) dated 31 March 2005, the cooperation agreement between the Court and Sudan dated 10 May 2021, Part 9 of the Rome Statute ("Statute"), and rules 13(1) and 176(2) of the Rules of Procedure and Evidence.

IV. Submissions

4. In the present filing, the Registry submits its observations relating to (i) the decision of the Registrar to reject part of the request of the Defence not to inform the Sudanese authorities of the said mission, (ii) the latest updates on the political and security situation in Sudan [REDACTED], and (iii) preparation of the appearance of the Defence witnesses.

¹ Trial Chamber I, Emails to the Office of the Prosecutor, the Common Legal Representatives of Victims and the Registry dated 29 December 2023 at 15.02, 15.04 and 18.32 respectively.

² Defence, "*Demande de report de la Date de reprise de la Présentation de la Défense*", 29 December 2023, ICC-02/05-01/20-1048-Conf.

Notification to the Sudanese authorities of the ICC missions to Sudan

5. As indicated in the [REDACTED] on the Defence request for approval of the mission of the Defence [REDACTED] to Sudan [REDACTED],³ the Court is obliged to inform the Sudanese authorities of the ICC missions occurring on their territory. As per the practice established with the Sudanese authorities, the Registry sends *notes verbales* to inform the Sudanese authorities of the ICC missions in which it also recalls the privileges and immunities that the ICC personnel, including counsel, are entitled to as per the Court's cooperation agreement with Sudan of 10 May 2021. As most of the ICC personnel require visas for entry into Sudan, such a requirement is fulfilled when requesting for visas to be issued to the ICC personnel conducting official missions to Sudan.⁴ [REDACTED].
6. The Defence submitted that these requirements can be waived in the present circumstances, because (i) Sudan is not a State Party to the Rome Statute, (ii) the cooperation agreement of 10 May 2021 is not valid, (iii) Sudan does not respect its obligations as per this agreement which in turns results in the Court not being bound by its obligations towards Sudan, and (iv) [REDACTED].
7. The Registry observes, at the outset, that notifications of investigative and judicial activities to the State on the territory of which these activities take place serve not only diplomatic but also legal functions. It ensures that these activities take place with the consent and knowledge of the State and within the particular framework negotiated with this State. The fact that Sudan is a not a State Party is irrelevant in that respect.
8. The Registry learned about the existence of [REDACTED]. The Defence stated

³ [REDACTED].

⁴ [REDACTED].

that [REDACTED].⁵ The Registry, as the channel of communication of the Court, is obliged to exercise caution [REDACTED]. The Registry cannot depart from its agreement with the Sudanese authorities [REDACTED].

Latest updates on the current security and political situation in Sudan [REDACTED]

9. It is to be noted that the Registry has not conducted a security assessment on this particular Defence mission [REDACTED] according to the [REDACTED] recommendations, [REDACTED].⁶ [REDACTED]. [REDACTED]. [REDACTED]⁷ [REDACTED]. [REDACTED].⁸

10. The Registry also provides the following observations with regards to the current political and security situation across Sudan, [REDACTED]. [REDACTED]. [REDACTED]⁹. [REDACTED]¹⁰ [REDACTED].¹¹

11. [REDACTED].¹² [REDACTED]. [REDACTED].¹³

12. The Registry will continue to monitor the political and security developments in Sudan [REDACTED] and may provide further updates if deemed necessary.

Preparation of the appearance of the Defence witnesses

13. In light of the prevailing insecurity in Sudan [REDACTED] the ICC and in particular Victims and Witnesses Unit (“VWU”) is not able to provide any security, logistical or psychosocial assistance to witnesses in Sudan.

⁵ [REDACTED].

⁶ [REDACTED].

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² [REDACTED].

¹³ [REDACTED].

14. The VWU has not received the Witness Information Forms (“WIF”) from the Defence with regards to witnesses D-01, D-02, D-03 and D-05. On 10 November 2023, the Defence submitted the WIFs for witnesses D-28, D-29, and D-32 to the VWU. On 21 November 2023, the Defence informed the VWU that D-28 will appear before the Court on 28 November 2023, D-29 on 29 November 2023, and D-32 on 6 December 2023. On 23 November 2023, the Defence informed the VWU that D-28 and D-29 did not arrive [REDACTED], and that D-32 will appear before the Court on 28 November 2023. D-32 was subsequently handed over to the VWU [REDACTED] for preparation, and appeared before the Court on 28 and 29 November 2023.

15. The VWU stands ready to receive and prepare witnesses D-01, D-02, D-03, D-05, D-28 and D-29 to appear before the Court when they are handed over in [REDACTED].

16. The Registry [REDACTED] remains on stand- by to provide the logistical support required for the part of the mission taking place in [REDACTED].

p.p. 

p.p. Marc Dubuisson, Director, Division of Judicial Services

on behalf of

Osvaldo Zavala Giler, Registrar

Dated this 22 July 2026

At The Hague, The Netherlands