

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 23 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 confidentiel redacted version of 'Réponse aux observations du Bureau du Procureur, des Représentants des Victimes et du Greffe' (ICC-02/05-01/20-1052-Conf-Red)", 12 January 2024, ICC-02/05-01/20-1055-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 email dated 5 January 2024,¹ the Registry hereby files its observations on the confidential redacted version of the Defence's "Réponse aux observations du Bureau du Procureur, des Représentants des Victimes et du Greffe"² ("Defence Submissions") as well on the questions raised by the Common Legal Representative for Victims in the "CLRV Observations on Defence "Demande de Report de la Date de Reprise de la Présentation de la Défense"³ ("CLRV's Questions" and CLRV's Submissions of 4 January 2024" respectively).

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 Submissions 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 Agreement on Cooperation between the International Criminal Court and the Republic of the Sudan dated 10 May 2021 ("Cooperation Agreement"), Part 9 of the Rome Statute ("Statute"), and rules 13(1), 14(2), 20(1)(b) and 176(2) of the Rules of Procedure and Evidence.

¹ Trial Chamber I, Email to the Office of the Prosecutor, the Common Legal Representatives of Victims and the Registry dated 5 January 2024 at 14.05.

² Defence, "Réponse aux observations du Bureau du Procureur, des Représentants des Victimes et du Greffe", 10 January 2024, ICC-02/05-01/20-1052-Conf-Red.

³ Common Legal Representative for Victims, "CLRV Observations on Defence "Demande de Report de la Date de Reprise de la Présentation de la Défense", 4 January 2024, ICC-02/05-01/20-1050-Conf.

IV. Submissions

4. In the present filing, the Registry submits its observations relating to (i) the Defence Submissions and (ii) CLRV's Questions.

Observations on the Defence Submissions

5. First of all, the Registry concurs with the CLRV's Submission of 4 January 2024 that the repeated Defence submission stating that the Cooperation Agreement lacks legal basis has already been rejected by the Chamber⁴ and thus the Registry will not submit further observations in this regard.
6. Secondly, the Registry would like to take this opportunity to inform the Chamber [REDACTED]⁵, [REDACTED]. [REDACTED]. The fact that visas have recently been granted to the staff of the Office of the Prosecutor⁶ also demonstrates that the Sudanese authorities are being cooperative in facilitating the ICC missions.
7. The fact that the Defence activities during the mission in question, should it take place, will, according to the Defence, [REDACTED]⁷ [REDACTED].
8. The Registry reiterates that [REDACTED].
9. Should the Chamber grant the Defence's request to waive the requirement to notify the Sudanese authorities of the Defence mission, the Registry notes that the Defence understands and agrees to the risks for conducting a mission to

⁴ Common Legal Representative for Victims, "CLRV Observations on Defence "Demande de Report de la Date de Reprise de la Présentation de la Défense", 4 January 2024, ICC-02/05-01/20-1050-Conf, para. 6.

⁵ Annex I.

⁶ Prosecution, "Prosecution's response to "Demande de Report de la Date de Reprise de la Présentation de la Défense", 4 January 2024, ICC-02/05-01/20-1049-Conf, para. 16.

⁷ 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; and "Réponse aux observations du Bureau du Procureur, des Représentants des Victimes et du Greffe", 10 January 2024, ICC-02/05-01/20-1052-Conf-Red.

[REDACTED] during an ongoing armed conflict and especially [REDACTED].⁸ The Registry wishes to further inform the Chamber that, in addition to the [REDACTED] recommendation for the Defence mission⁹, should there be any problem, the Registry remains ready to provide the necessary assistance, to the extent possible. However, [REDACTED].

Response to the CLRV's Questions

10. In the context of the organisation of missions of external counsel,¹⁰ the Registry clarifies that a mission is considered as “official” once a formal mission request submitted by external counsel has been positively assessed, taking into consideration the relevant parameters and subsequently authorised by the Registry.
11. The Registry provides below a summary overview of the specific steps and actions required in the context of such a mission request:
 - a. Once external counsel is formally appointed in a case, the dedicated Registry section provides a briefing on the relevant administrative procedures she or he is required to follow in the event Registry services are required in the context of the legal representation before the Court, including the procedure and steps to be taken for the organisation of missions. These administrative procedures are equally posted on the External Portal Network and are permanently accessible to external counsel and team members for any future perusal.
 - b. As per the established administrative procedures, the Registry (via the designated Registry section), as soon as a formal mission request is received from external counsel, commences its necessary and relevant assessment insofar as the mission would need to be covered by funds as

⁸ 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, para. 16.

⁹ [REDACTED].

¹⁰ That is, defence counsel and the legal representative of victims other than OPCD and OPCV.

foreseen under the Court's Legal Aid System. For reference, public legal aid funds (such as funds for investigation purposes) are held in trust by the Registry and can only be earmarked for specific investigative activities after a thorough and successful Registry assessment.

- c. Once this assessment is positively concluded, the Registry informs external counsel of the outcome and continues with the internal administrative processes such as the creation of the trip in the SAP system, liaison with designated Registry sections responsible for mission planning, security assessment, logistics and cooperation.
- d. At every instance in the above-mentioned processes, external counsel and relevant travellers are kept abreast of all developments and are requested to provide further information and/or justifications regarding the mission, if so required.

12. In the context of the mission in question of the Defence, the Registry submits that the mission is considered "official", insofar as the procedure as outlined above has been followed, in particular given that the mission request has been submitted, triggering the subsequent assessment, resources and approval by the Registry. The Registry emphasises that it has never rejected the said mission and remains available to further facilitate the mission as per the Registry's procedures and obligations.

13. With regard to the other questions raised by the CLRV, the Registry would like to indicate that it has not previously received any request from a defence or victims team not to notify a State of "intended defence or LRV missions on a State's territory". For complete information, and as per the established procedure, the Registry notifies States of upcoming ICC activities taking place on their territories. For missions to States parties to the Statute, the Registry notifies the said States of the mission. In the cases of States parties to the Statute which have not ratified the Agreement on Privileges and Immunities of the

Court, the Registry requests the said States to grant the delegation with the necessary privileges and immunities for the proper conduct of the mission. For missions to States not party to the Statute, the Registry requests authorization to conduct ICC related activities on their territory as well as the granting of privileges and immunities. With regard to missions to a situation country with which the Court has concluded a cooperation agreement, the Registry notifies the said State when such a practice is established with the relevant host authorities.

14. When the Registry receives a formal mission request, the requested assistance does not depend on [REDACTED], of said missions.

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Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 23 July 2026

At The Hague, the Netherlands