



Original: English

**No. ICC-02/05-01/20
Date: 22 December 2022**

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

Decision on the joint submissions on agreed facts

To be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Karim A.A. Khan
Nazhat Shameem Khan
Julian Nicholls

Counsel for the Defence

Cyril Laucci
Iain Edwards

Legal Representatives of Victims

Natalie von Wistinghausen
Anand Shah

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 4 March 2021, 14 April 2021, 2 November 2021, and 11 February 2022, the Prosecution and the Defence (the ‘parties’) filed their first, second, third and fourth joint submissions on agreed facts respectively.¹ The legal representatives of victims indicated that these agreed facts did not negatively affect the interests of the victims.²
2. On 14 December 2022, the parties filed their fifth joint submission on agreed facts before Trial Chamber I (the ‘Chamber’).³ The agreement related to sunrise, sunset and prayer times on dates relevant to the charged incidents and other religious festivals in West Darfur State, Sudan.⁴ The Common Legal representative of Victims indicated that these agreed facts did not negatively affect the interests of the victims.⁵
3. According to Rule 69 of the Rules of Procedure and Evidence, the Chamber may consider alleged facts agreed upon by the parties as proven, unless the Chamber is of the opinion that a more complete presentation of the alleged facts is required in the interests of justice, in particular the interests of the victims.⁶
4. The Chamber finds that, at this stage, a more complete presentation of the facts agreed by the parties in their first, second, third, fourth and fifth joint submissions is not required in the interests of justice, also considering that –as indicated by the victims’ legal representatives– these agreed facts do not negatively affect the interests of the victims.

¹ Pre-Trial Chamber II, Joint Prosecution and Defence submission on agreed facts, ICC-02/05-01/20-291 (with annex A); Pre-Trial Chamber II, Second Joint Prosecution and Defence submission on agreed facts, ICC-02/05-01/20-343 (with annexes A and B); Trial Chamber I, Third Joint Prosecution and Defence Submission on Agreed facts, ICC-02/05-01/20-504 (with annexes A, B and C); Trial Chamber I, Fourth Joint Prosecution and Defence Submission on Agreed Facts, ICC-02/05-01/20-594 (with annex A) (notified on 14 February 2022).

² Pre-Trial Chamber II, Notification on behalf of Applicant Victims on the “Joint Prosecution and Defence submission on agreed facts”, 16 March 2021, ICC-02/05-01/20-304; Pre-Trial Chamber II, Notification on behalf of Applicant Victims on the “Second Joint Prosecution and Defence submission on agreed facts”, 19 April 2021, ICC-02/05-01/20-352; Trial Chamber I, Notification on behalf of Applicant Victims on the ‘Third Joint Prosecution and Defence submission on agreed facts’, 9 November 2021, ICC-02/05-01/20-514; Trial Chamber I, Notification on behalf of Victims on the ‘Fourth Joint Prosecution and Defence submission on agreed facts’, 15 February 2022, ICC-02/05-01/20-597.

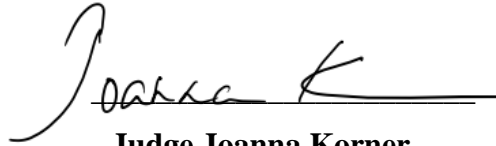
³ Fifth Joint Prosecution and Defence Submission on Agreed Facts, ICC-02/05-01/20-833.

⁴ Annex A to the Fifth Joint Prosecution and Defence Submission on Agreed Facts, ICC-02/05-01/20-833-AnxA.

⁵ Notification on behalf of Victims on the ‘Fifth Joint Prosecution and Defence Submission on Agreed Facts’, and on the ‘Prosecution’s request to submit lists of victims from the bar table’, 19 December 2022, ICC-02/05-01/20-837.

⁶ See e.g., Trial Chamber V, *Prosecutor v. Alfred Yekatom & Patrice-Edouard Ngaijssona*, Decision on the Joint Submission on Agreed Facts, 19 January 2021, ICC-01/14-01/18-835; Trial Chamber IX, *Prosecutor vs. Dominic Ongwen*, Decision on Joint Agreed Facts Submission, 19 July 2016, ICC-02/04-01/15-500.

5. The Chamber thus considers as proven the facts agreed by the parties in their first, second, third, fourth and fifth joint submissions. The Chamber commends the parties for their co-operation and encourages them to continue exploring possibilities for further agreements on facts.




Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

Dated this 22 December 2022

At The Hague, The Netherlands