



Original: English

**No. ICC-02/05-01/20
Date: 11 December 2023**

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

Third Directions on the conduct of proceedings

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

Oswaldo Zavalla Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 4 October 2021, Trial Chamber I (the ‘Chamber’) issued the ‘Directions on the conduct of proceedings’.¹
2. On 15 December 2022, the Chamber issued its ‘Second Directions on the Conduct of Proceedings’.²
3. On 24 January 2023, the Chamber issued an ‘Addendum to the Directions on the Conduct of Proceedings Motion for Acquittal’.³
4. On 20 October 2023, the Defence started the presentation of its case with its opening statements.⁴
5. During the hearing on 5 December 2023, the Defence informed the Chamber it still intends to call 10 remaining witnesses on the Defence’s witness list. It also informed the Chamber that it may call some additional witnesses. The Prosecution informed the Chamber it does not expect to call any rebuttal evidence.⁵
6. Currently the Defence case is scheduled to recommence on 15 January until 2 February 2024. Additional court days have been reserved until 28 March 2024, in case the Defence is authorised to call additional witnesses.⁶
7. Bearing the aforesaid schedule, and to give the parties and participants adequate time to prepare, the Chamber hereby issues further directions relevant to these final stages of the proceedings.

Defence case

8. As discussed with the parties during the hearing of 5 December 2023,⁷ the Defence must file any bar table motion no later than two weeks after the testimony of

¹ Directions on the conduct of proceedings, ICC-02/05-01/20-478 with Annex A.

² Second Directions on the Conduct of Proceedings, ICC-02/05-01/20-836.

³ Addendum to the Directions on the Conduct of Proceedings Motion for Acquittal, ICC-02/05-01/20-855.

⁴ Transcript of hearing, 20 October 2023, ICC-02/05-01/20-T-129.

⁵ Transcript the hearing, 5 December 2023, ICC-02/05-01/20-T-143-CONF-ENG, p. 29-38.

⁶ E-mail from Trial Chamber I, 5 December 2023, at 14:10.

⁷ Transcript of hearing, 5 December 2023, ICC-02/05-01/20-T-143-CONF-ENG, p. 34, lines 1-10.

the last Defence witness. The Defence is nonetheless invited to file a motion as soon as possible, which can be supplemented by the aforesaid deadline.

9. After the completion of the testimony of the last Defence witness and after the Chamber has adjudicated on any pending evidentiary request, the Defence shall provide a formal notice of the conclusion of evidence presentation to be filed in the case record.

Rebuttal evidence

10. Although the Prosecution does not foresee calling any rebuttal evidence, should the position change, it is instructed to inform the Chamber and the Defence immediately, and no later than five days after the last Defence witness has testified.

Closure of evidence, final briefs and closing statements

11. Considering the parties' submissions and estimates above,⁸ and pursuant to Rule 141(1) of the Rules of Procedure and Evidence, it is expected that the evidence will be completed sometime before the 2024 spring judicial recess.

12. The Chamber notes that the parties propose a period of 8-10 weeks between the last Defence witness and the filing of the final briefs.⁹ Bearing in mind the time that will elapse between the last Defence witness and the formal closure of the evidence, the Chamber decides that the parties and participants shall file their final briefs no later than eight weeks after the official closure of evidence.

13. The Prosecution and Defence final briefs shall not exceed 200 pages. The Common Legal Representative for Victims' (the CLRV') final brief shall not exceed 125 pages. Any annexes to the final briefs will not be counted as part of the page limit. However, pursuant to Regulation 36(2)(b) of the Regulations of the Court, annexes should not contain any argument on substance or evidentiary excerpts or summaries of the same and should be strictly limited to accessory non-substantial information.

⁸ Transcript of hearing, 5 December 2023, ICC-02/05-01/20-T-143-CONF-ENG, p. 29-34.

⁹ Transcript of hearing, 5 December 2023, ICC-02/05-01/20-T-143-CONF-ENG, p. 35, line 20 to p. 36, line 9.

14. The Chamber reminds the parties and the participants of the format requirements for documents as set out in Regulation 36 of the Regulations of the Court. Additionally, the parties and participants should rely, for the drafting of their respective final briefs, and to the extent possible, on the most recent available versions of transcripts.¹⁰ Should subsequent transcript corrections be notified after the filing of the final briefs and result in substantive changes, the parties and participants shall bring these to the Chamber's attention. Public redacted versions of the final briefs should be filed simultaneously. Parties and participants should follow the following format when stating witness codes in their respective briefs: P-0000, D-0000 and V-0000 for Prosecution, Defence and CLRV witnesses respectively.

15. The Chamber emphasises that the purpose of the final briefs is to provide a summary of the parties and participants' views and arguments on the confirmed charges and the evidence presented at trial. To this end, the parties and participants are to ensure that their final briefs point to the relevant evidence which support the arguments they assert.

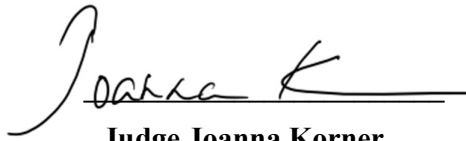
16. The closing statements will take place 4 weeks after notification of the final briefs.

17. The Prosecution and the Defence will have 4.5 hours each for their closing statements. The CLRV will have 1.5 hours for her closing statements. As noted during the hearing of 5 December,¹¹ the closing statements should be used to respond to the arguments forwarded in the final briefs of the other parties and participants. The Chamber may pose questions to the parties and participants during the closing statements, and to the extent possible, the Chamber will send questions in advance of the hearing so counsel can prepare. Any time taken on these questions, will be discounted from the parties and participants' allocated time. Pursuant to Rule 141(2) of the Rules, the Defence shall always have the opportunity to speak last.

¹⁰ References to transcripts in the footnotes should comply with the following format: P-XXX: T-XXX, p. XX, lines XX-XX (Conf [if applicable]). In case of apparent discrepancies between the English and French transcripts, the relevant reference to both transcripts shall be provided. For example, P-XXX: T-XXX[ENG], p. XX, lines XX-XX (Conf [if applicable]) and T-XXX[FR], p. XX, lines XX-XX.

¹¹ Transcript of hearing, 5 December 2023, ICC-02/05-01/20-T-143-CONF-ENG, p. 37, lines 13-15.

18. Like the opening statements, closing statements will be held in public session. Accordingly, the Chamber will only authorise private sessions for very discrete instances where the parties and participants need to refer to confidential information to develop their arguments in response of the final briefs or any questions from the Chamber.

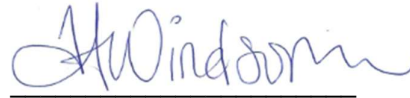


Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

Dated this 11 December 2023

At The Hague, The Netherlands