

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 8 March 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

**Public redacted version of "Registry's Report on Languages to be used at Trial by
Prosecution Witnesses", 25 February 2022, ICC-02/05-01/20-608-Conf**

Source: Registry

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

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I. Introduction

1. Pursuant to the email instruction of Trial Chamber I (“Chamber”) dated 11 February 2022 (“Instruction”),¹ and on the basis of the updated list of witnesses to be called by the Office of the Prosecutor (“Prosecution”),² the Registry hereby submits its observations on languages to be used at trial by Prosecution witnesses in the case of *The Prosecutor vs. Mr Ali Muhammad Ali Abd-Al-Rahman* (“Mr Abd-Al-Rahman” or “Defence”). In brief, notwithstanding the recruitment efforts over the past eighteen months, the Registry has only been able to identify a small number of potential interpreters in the required Fur and Sudanese Arabic languages (including dialect spoken in Darfur). Additional time is needed for the Registry to recruit and train a fully functional team of interpreters able to provide court interpretation at trial.

II. Procedural history

2. On 1 September 2021, upon Chamber’s order,³ the Registry provided its submissions on, *inter alia*, “languages to be used by the parties, participants, and the witnesses the parties intend to call” (“1 September 2021 Report”).⁴
3. At a status conference on 7 February 2022, the Registry made further observations on issues of interpretation.⁵

¹ Email from Trial Chamber I to Registry on 11 February 2022 at 9.19.

² Prosecution, “Prosecution’s submission of the updated list of *viva voce* and rule 68(3) witnesses with indication of language of testimony”, 18 February 2022, ICC-02/05-01/20-600.

³ Trial Chamber I, “Order scheduling first status conference”, 16 August 2021, ICC-02/05-01/20-451, para. 1.

⁴ Registry, Registry Submissions in View of the Upcoming Status Conference in accordance with “Order scheduling first status conference” (ICC-02/05-01/20-451), 1 September 2021, ICC-02/05-01/20-462, Part A.

⁵ Transcript of 7 February 2022, ICC-02/05-01/20-T-020-CONF-ENG ET, p. 53, line 25 – p. 60, line 15.

III. Classification

4. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court ("RoC"), the present report is classified as confidential, as it contains information pertaining to the internal operations of the Court.

IV. Applicable law

5. The following provisions and legal texts are of particular relevance to the present submissions: article 67(1)(f) of the Rome Statute ("Statute") and regulations 57(1), 61, 64(7), 66(2), 67, 68(1), 68(2) and 68(4) of the Regulations of the Registry ("RoR").

V. Submissions

6. The updated list of the witnesses to be called by the Prosecution as submitted on 18 February 2022 suggests that Fur will be the language of testimony of the vast majority of the witnesses, followed by Sudanese Arabic. Altogether, over 93 per cent of the witnesses are expected to give testimony in one of these two languages: [REDACTED].⁶
7. [REDACTED].⁷
8. While the Registry had anticipated a potential need for Fur and Sudanese Arabic field and operational interpretation at the pre-trial stage, the Registry had no concrete information on the number of witnesses expected to give testimony in either language until the status conference on 8 September 2021 when the Prosecution mentioned that, out of the 124 expected witnesses, there were "71 who speak Arabic and 35 who speak Fur".⁸ These numbers are

⁶ Prosecution, "Prosecution's submission of the updated list of *viva voce* and rule 68(3) witnesses with indication of language of testimony", 18 February 2022, ICC-02/05-01/20-600.

⁷ Ibid.

⁸ Transcript of 8 September 2021, ICC-02/05-01/20-T-013-ENG ET, p. 28, lines 10-13.

considered high enough to trigger the need for in-house provision of simultaneous interpretation by a team of para-professional Fur interpreters,⁹ a possibility that had already been explored in the Registry's 1 September 2021 Report.¹⁰

9. Thus far, the Registry had aimed at recruiting freelance field interpreters to support operational activities and provide consecutive interpretation in court on an exceptional basis for the small number of witnesses that had been expected to give testimony in Fur. The fact that the need for simultaneous interpretation was confirmed only at this late stage has no bearing on the outcome of the recruitment efforts as there is a lack of qualified court interpreters in Fur worldwide, and recruitment for both field interpreters and para-professional interpreters draws from the same extremely small pool of candidates and is subject to the same constraints, as explained next.
10. The Registry has consistently experienced difficulties in recruiting field interpreters among the Sudanese diaspora for Sudanese situation languages of lesser diffusion, such as Zaghawa and Fur. This is due to the small size of the speech communities even within Sudan. In addition, there are very few expatriated speakers with higher-level education and a good command of English who could be recruited without exposing themselves or their family members in Sudan to a security risk or without posing any operational risks to the Court.
11. Given the security-related restrictions and bearing in mind the Registry's obligation under regulation 68(4)(a) of the RoR (i.e. duty of care towards field

⁹ Para-professional interpreters are interpreters who do not have a degree in Conference Interpreting. They are recruited as staff by the Language Services Section at the P-1 staff grade level after passing an aptitude test. They undertake six months of intensive training, followed by an examination. Successful trainees are then deployed as para-professional interpreters to provide simultaneous interpretation during hearings.

¹⁰ Registry, Registry Submissions in View of the Upcoming Status Conference in accordance with "Order scheduling first status conference" (ICC-02/05-01/20-451), 1 September 2021, ICC-02/05-01/20-462, para. 10.

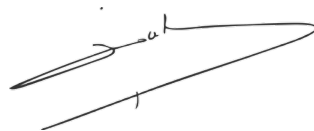
interpreters), the Language Services Section (“LSS”) of the Registry was able to conduct field interpreter recruitment activities in Sudan only in September 2021. Remote interviews and language tests were immediately initiated with a number of candidates.

12. Following the military takeover in Sudan in October 2021, these recruitment activities, including the organization of a field interpreter recruitment mission to Sudan, had to be suspended and the ongoing security vetting of freelance field interpreter candidates based in Sudan was put on hold. [REDACTED]
13. In spite of all efforts made to find resources outside Sudan, a sufficient number of qualified candidates could not be found. Out of all potentially qualified applicants outside Sudan, only two candidates could be added to the roster of field interpreters so far as other applicants and potential candidates did not fulfil the required language skills or did not pass the Court’s security vetting. [REDACTED]
14. While the vacancy announcement for freelance field interpreters, which had been published on 4 September 2020, remains open, LSS is continuing to explore potential resources for field interpreters outside Sudan in collaboration with the Language Services Unit (LSU) of the Prosecution. Considering the demonstrable lack of resources for Fur and Darfur Arabic outside Darfur/Sudan, the successful recruitment of a sufficient number of Fur and Darfur Arabic interpreters is entirely dependent on the access to the pool of potential candidates residing in Sudan/Darfur. This is comparable to other cases that have required a situation language para-professional booth. Examples refer to Acholi in the *Ongwen* case and Sango in the cases in the situation in the Central African Republic, where interpreters are recruited directly from the respective situation country.
15. In light of the above, the Registry is therefore not yet able to provide court interpretation in Fur, nor in Darfur Arabic given that the dialect of Arabic as

spoken by the witnesses is unlikely to be understood sufficiently by Arabic court interpreters for the purpose of interpreting at the hearings.

16. In view of the large number of witnesses listed to give testimony in Fur and Sudanese Arabic, consecutive interpretation provided by field interpreters is not a sustainable solution anymore. Irrespective of the language spoken, resorting to this mode of interpretation is not advised for a full week of testimony. For planning purposes, the Registry specifies that it will therefore require six months, starting from the day that at least four Fur and Sudanese/Darfur Arabic para-professional interpreters take up their duties full-time, before simultaneous interpretation at trial can be provided. This time frame is based on the assumption that the Fur interpreters constituting the para-professional booth would interpret in both language combinations, Fur–English and Darfur Arabic–English. The possibility that additional interpreters may be needed to service both situation languages cannot be discarded, considering the large number of Prosecution witnesses, who will be giving testimony in Sudanese/Darfur Arabic.

17. [REDACTED] The Registry will be able to continue its recruitment efforts with candidates who reside in Sudan/Darfur as soon as the security situation will allow locally based interpreters to be safely deployed. While giving priority to this recruitment process, a successful outcome in last instance will depend on the availability and personal security clearances (i.e. vetting) of any candidate.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Peter Lewis, Registrar

Dated this 8 March 2022

At The Hague, Netherlands