

Trial Hearing
Procedural Matters

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb") -
5 ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet
7 Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Tuesday, 16 January 2024
10 (The hearing starts in open session at 9.40 a.m.)
11 THE COURT USHER: [9:40:36] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:40:59] Yes.
15 Can we call the case, please.
16 THE COURT OFFICER: [9:41:01] Good morning, Madam President. Good morning,
17 your Honours.
18 This is the Situation in Darfur, Sudan, in the case of The Prosecutor versus Ali
19 Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"), case reference ICC-02/05-01/20.
20 And for the record, we are in open session.
21 PRESIDING JUDGE KORNER: [9:41:25] Yes. Thank you very much.
22 Right. First of all, good morning everybody, and happy new year to all.
23 Though it could have been a happier start to the new year, if I may say so.
24 All right. We are at present -- well, first of all, actually, sorry, a month off has stopped
25 all the procedures in my mind. Can we have the appearances from the Prosecution,

1 please.

2 MR NICHOLLS: [9:41:55] Good morning, Madam President. Good morning, your
3 Honours. Good morning to everyone. Julian Nicholls with Edward Jeremy, Claire
4 Sabatini, Diana Saba, and Alison Whitford. Thank you.

5 PRESIDING JUDGE KORNER: [9:42:09] Yes. Thank you, Mr Nicholls. Defence?

6 MR LAUCCI: [9:42:13](Interpretation) Good morning, Madam President. Good
7 morning, your Honours, and my best wishes to you, and also to my colleagues in the
8 Office of the Prosecutor, the Legal Representatives of Victims, the representatives of the
9 Registry.

10 And this morning, for the Defence, we have Mr Thomas Chatelet, who is an intern with
11 us in our team; Madame Eva Kalb; and Mr Ahmad Issa, who is our legal assistant; Mr
12 Iain Edwards; and myself, with Mr Abd-Al-Rahman, who is also present in the
13 courtroom, myself, Mr Cyril Laucci.

14 PRESIDING JUDGE KORNER: [9:42:58] Yes. Thank you, Mr Laucci.

15 And the Representatives of the Victims?

16 MS VON WISTINGHAUSEN: [9:43:05] Good morning, Madam President, your
17 Honours, dear colleagues. Happy and healthy new year to everyone.

18 The victims today are represented by associate counsel, Anand Shah; our case manager,
19 Saif Kassis. We have an intern, Beatrice Carpani, and a visiting professional, Charlotte
20 Imhof, and myself, Natalie von Wistinghausen.

21 PRESIDING JUDGE KORNER: [9:43:25] Yes. Thank you very much, Ms von
22 Wistinghausen.

23 And finally the Registry, please.

24 MR DUBUISSON: [9:43:31](Interpretation) Madam President, your Honours. First of
25 all, best wishes to you for 2024.

1 And for the Registry, we have today Anne-Aurore Bertrand, who is cooperation
2 adviser; Vera Wang, who is coordinator for external affairs; Natalie Wagner, who is
3 legal coordinator; and Gerhard van Rooyen, who is the administrator; and myself, Mr
4 Marc Dubuisson, who is representing Mr Osvaldo Giler, the Registrar. Thank you.

5 PRESIDING JUDGE KORNER: [9:44:10] Yes. Thank you very much, Mr Dubuisson.

6 All right. We are at present in open session.

7 Whilst today should have been the continuation of the Defence case, for the reasons
8 that have become clear, that is not possible, and the application by the Defence is to
9 adjourn.

10 It seems to me - and I will hear any submissions on this - that this will have to be dealt
11 with in private session. The factors which affect this are those which are -- or some of
12 them, at least, are confidential.

13 So, I think we'll have to go into private session. The only other question is, Mr Laucci,
14 at any stage are you going to want an ex parte hearing?

15 MR LAUCCI: [9:45:15] As we wrote in the submission, Madam President, the topics
16 that we would like to address only in ex parte are {ICR: (Redacted)}

17 PRESIDING JUDGE KORNER: [9:45:33] I thought that had been -- I mean, I thought
18 everybody got that now?

19 MR LAUCCI: [9:45:37] Yes, indeed. Thank you, Iain.

20 Well, the items that should be discussed in an ex parte session are identified in our
21 submissions, but I shall not mention them in public.

22 PRESIDING JUDGE KORNER: [9:45:53] Yes. All I want to know is because obviously
23 if there's going to be an ex parte hearing there will have to be a break. And off the top
24 of my head, I can't remember which items you --

25 MR LAUCCI: [9:46:08] Unless your Honour has specific questions on these topics that

1 are identified ex parte, I think it's unlikely that we will need it.

2 PRESIDING JUDGE KORNER: [9:46:18] All right. Well, I suppose we better see how

3 we go. But I think we had better go into a private session. Thank you.

4 (Private session at 9.46 a.m.)

5 THE COURT OFFICER: [9:46:40] We are in private session, Madam President.

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Pages 5 to 99 redacted – private session

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10 (Open session at 3.53 p.m.)

11 THE COURT OFFICER: [15:53:39] We are in open session, Madam President.

12 PRESIDING JUDGE KORNER: [15:53:41] Yes. All right. That concludes the Status

13 Conference. I regret to say to those of you in the public gallery who thought you were

14 going to hear something and you didn't, I'm afraid certain matters cannot be dealt with

15 in public.

16 We will adjourn. As I say, you'll get our ruling this week, and then we'll see where we

17 go from there.

18 Yes. Thank you very much.

19 THE COURT USHER: [15:54:14] All rise.

20 (The hearing ends in open session at 3.54 p.m.)