



Original: English

**No. ICC-02/05-01/20
Date: 7 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
with public annex**

Decision adopting a dual status witness protocol

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

The Office of the Prosecutor

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Julian Nicholls

Counsel for the Defence

Cyril Laucci
Iain Edwards

Legal Representatives of Victims

Natalie von Wistinghausen
Nasser Mohamed Amin Abdalla
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

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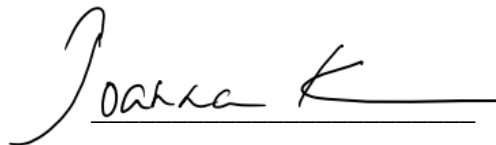
Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

1. On 7 December 2021, the Common Legal Representatives of Victims (the ‘CLR V’) filed observations regarding the protocols to be adopted in the case. As an alternative request, the CLR V called for the adoption of a protocol on dual status individuals.¹ The parties had no objections to the adoption of such a protocol.²
2. On 22 February 2022, the CLR V provided a list of witnesses who have dual status as victims in the case. It suggested the adoption of similar procedures as adopted in the *Al Hassan* and *Yekatom & Ngaïssona* cases.³
3. Bearing in mind the concerns addressed by the CLR V and the practice of various trial chambers, the Chamber finds that the dual status witness protocol adopted in the *Yekatom & Ngaïssona* case – which generally follows the protocols in the *Ongwen* and *Al Hassan* cases – shall apply in this case.⁴
4. Accordingly, the Chamber hereby issues the dual status witness protocol adopted for the proceedings.



Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

¹ Observations on the « Protocol on the handling of confidential information during investigations and contact between party or participant and witnesses of the opposing party or of a participant », ICC-02/05-01/20-531, paras 10-11. *See also* Transcript of hearing, ICC-02/05-01/20-T-017-Red-ENG, 19 November 2021, p. 30, line 9 to p. 32, line 13.

² *See* Transcript of hearing, ICC-02/05-01/20-T-018-CONF-ENG, p. 34, lines 8-12; p. 35, lines 10-12. *See also* Defence’s observations on the “Protocol on the handling of confidential information during investigations and contact between party or participant and witnesses of the opposing party or of a participant”, 7 January 2022, ICC-02/05-01/20-553, para. 9.

³ Email from the CLR V, at 10:00, *referring to* Trial Chamber X, *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on the Prosecution request for access to the identity and applications of participating victims and inviting report and submissions on victim application procedure, 20 December 2019, ICC-01/12-01/18-536; Trial Chamber V, *Prosecutor v. Alfred Yekatom & Patrice-Edouard Ngaïssona*, 8 October 2020, ICC-01/14-01/18-677 and Decision on Motion for Disclosure of Witnesses with Dual Status, 13 September 2019, ICC-01/14-01/18-339.

⁴ Annex 2 to the Decision on Protocols at Trial, 8 October 2020, ICC-01/14-01/18-677-Anx2. *See also* [Chambers Practice Manual](#), para. 79.

Dated this 7 March 2022

At The Hague, The Netherlands