



Original : English

N°: ICC-02/05-01/20  
Date: 21 November 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 Redacted Annexes 1 to 7, and 9 to 13**  
**and**  
**Confidential Annexes 2 to 9, and 11 to 13**  
**Confidential EX PARTE Annex 1 only available to the Defence and Detention**  
**Section**  
**Confidential EX PARTE Annex 10 only available to the Prosecution, Defence and**  
**VWU**

**Fourth Registry Quarterly Report on Decisions issued by way of e-mail from**  
**August to October 2022**

**Source : Registry**

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

**The Office of the Prosecutor**

Mr Karim A.A Khan  
Ms Nazhat Shameem Khan  
Mr Julian Nicholls

**Counsel for the Defence**

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Mr Iain Edwards

**Legal Representatives of the Victims**

Ms Natalie von Wistinghausen  
Mr Anand Shah

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

Mr Harry Tjonk

**Victims Participation and Reparations  
Section**

**Other**

## **I. Introduction**

1. The Registry submits with the present report and its 13 annexes, the public redacted and confidential versions of email decisions pursuant to the “Directions on the conduct of proceedings”<sup>1</sup> (“Directions”), issued on 4 October 2021 by Trial Chamber I (“Chamber”).<sup>2</sup>

## **II. Procedural History**

2. On 4 October 2021, the Chamber issued the Directions instructing the Registry to file all email decisions on the case record in quarterly reports starting 1 November 2021.<sup>3</sup>
3. The Chamber directed the parties and participants to: i) frame their requests made by email in a way that make their publicity possible; and ii) indicate in the email when emails cannot be made public at all.<sup>4</sup>

## **III. Classification**

4. Pursuant to regulation 23bis(1) of the Regulations of the Court, some of the annexes are classified as “confidential” because they refer to sensitive information that should not be disclosed to the public.

## **IV. Applicable law**

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<sup>1</sup> Trial Chamber I, Directions on the conduct of proceedings, ICC-02/05-01/20-478, 4 October 2021.

<sup>2</sup> *Ibid.*, para. 74.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, para 75.

5. For the purpose of the present submission, the Registry considered articles 64(7), 64(10) and 67(1) of the Rome Statute and rule 137 of the Rules of Procedure and Evidence.

## V. Submissions

6. In the Directions, the Chamber provided criteria for the application of the redactions to the email decisions. The Registry was instructed *inter alia* to apply redactions to i) names of Chambers staff members, where applicable; ii) names of Registry staff members, if deemed necessary by the Registry; and iii) any personal email address or other private or personal information. The Registry shall consult the participants on the redactions applied.<sup>5</sup>
7. In order to enable the parties and participants to suggest specific additional redactions, Registry liaised with the Prosecution, the Defence, the Legal Representatives of Victims (“LRVs”), and relevant sections of the Registry.<sup>6</sup>
8. Redaction proposals were received from the Prosecution,<sup>7</sup> the Victims and Witnesses Unit,<sup>8</sup> and the Detention Section.<sup>9</sup> With the exception of Annex 8 which the Defence submits should remain confidential,<sup>10</sup> no further proposals were submitted.<sup>11</sup>
9. Accordingly, the Registry applied redactions to emails set forth in 12 of the following 13 annexes:

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<sup>5</sup> *Ibid*, para. 75.

<sup>6</sup> Emails sent by the Courtroom Officer/Associate Legal Officer on 28 October 2022 at 17:17 and an additional email sent at 17:18.

<sup>7</sup> Email sent by the Prosecution on 8 November 2022 at 16:33 containing annexes with proposals for further redactions.

<sup>8</sup> Email sent by VWU on 1 November 2022 at 12 :24, with annexes 5 and 7. No further redactions were required for Annex 10, per email dated 28 October 2022 at 18:14.

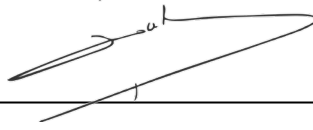
<sup>9</sup> Email sent by the Detention Section on 2 November 2022 at 13:21 with further redacted annex 1.

<sup>10</sup> Email sent by the Defence 14 November 2022 at 09:57.

<sup>11</sup> Emails sent by the Defence 28 October 2022 at 17:48 and 17:50.

- **Annex 1:** RE: Registry Medical Report as ordered on 6 October 2022, dated 25 October 2022 14:13;
- **Annex 2:** RE: Decision on Updated witness order November/December, dated 24 October 2022 14:20;
- **Annex 3:** Decision on Updated witness order November/December, dated 19 October 2022 15:22;
- **Annex 4:** RE: Request for reclassification of the Prosecution's Trial Brief, dated 18 October 2022 15:44;
- **Annex 5:** RE: RE: In-court protective measures for witness DAR-P-0935, dated 12 October 2022 16:19;
- **Annex 6:** RE: New format of ERNs, dated 03 October 2022 11:44;
- **Annex 7:** P-0994 - use of video-link and protective measures, dated 29 September 2022 14:31;
- **Annex 8:** RE: Responses to Defence Request #753-Conf, dated 22 September 2022 11:34;
- **Annex 9:** Potential use of Rule 68(3) for witnesses testifying in October 2022, dated 12 September 2022 11:15;
- **Annex 10:** RE: P 129, dated 05 September 2022 10:47;
- **Annex 11:** RE: Updated Calling order 25 August - 29 September, dated 30 August 2022 15:58;
- **Annex 12:** RE: Updated Calling order 25 August - 29 September, dated 19 August 2022 09:43; and,
- **Annex 13:** RE: Updated Calling order 25 August - 29 September, dated 16 August 2022 16:19.

10. In addition, the Registry simultaneously submits the 13 annexes listed above in their confidential classification.



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

Dated this 21 November 2022

At The Hague, The Netherlands