



Original: English

No. **ICC-02/05-01/20**
Date: **22 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 Annex

Third decision on the admission of victims to participate in trial proceedings

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

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Legal Representatives of Victims

Natalie von Wistinghausen
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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

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**Victims Participation and Reparations
Section**

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Other

1. On 19 October 2021, Trial Chamber I (the ‘Chamber’) issued a decision on victims’ participation and representation in trial proceedings, in which it adopted Pre-Trial Chamber II’s victim application process (the ‘ABC Approach’) and appointed a team of Common Legal Representatives for Victims (the ‘CLR.V’) (the ‘Decision on victims’ participation’).¹
2. On 12 November 2021, as a result of a Defence request, the Chamber issued an oral decision confirming the use of the ABC Approach.²
3. On 6 December 2021, as instructed by the Chamber,³ the Registry filed its first assessment report on victims’ applications for participation in trial proceedings.⁴ It also transmitted 142 Group A applications to the Chamber.⁵
4. On 14 January 2022, the Chamber confirmed the continued participation of 130 victims admitted at pre-trial and authorised 12 new applicants identified in Group A of the First Registry Report to participate as victims in the trial proceedings.⁶
5. On 25 August 2022 the Registry transmitted 31 victims’ applications for participation from Group A,⁷ as well as an accompanying assessment report.⁸

¹ Decision on victims’ participation and legal representation in trial proceedings, ICC-02/05-01/20-494.

² Transcript of hearing, 12 November 2021, ICC-02/05-01/20-T-017-Red-ENG, p. 44, line 18 to p. 47, line 8. A request for leave to appeal this decision was also rejected. *See* Decision on the Defence’s requests for leave to appeal the oral decisions on the inadmissibility of evidence and victims’ participation, 2 December 2021, ICC-02/05-01/20-525. *See* Requête aux fins d’autorisation d’interjeter appel de la décision orale de rejet la Requête ICC-02/05-01/20-497, 18 November 2021, ICC-02/05-01/20-520. *See* Requête relative au processus d’admission des victimes à participer à la procédure, ICC-02/05-01/20-497. *See also* Decision establishing the principles applicable to victims’ participation and representation during the Confirmation Hearing, 18 January 2021, ICC-02/05-01/20-259.

³ Decision on victims’ participation and legal representation in trial proceedings, 19 October 2021, ICC-02/05-01/20-494, para. 16(ix).

⁴ First Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, ICC-02/05-01/20-528+ 528-Conf-Anx. None of the parties or participants responded to the Registry’s Report.

⁵ First Registry Transmission of Group A Applications for Victims’ Participation in Trial Proceedings, 6 December 2021, ICC-02/05-01/20-529 (with 142 confidential *ex parte* annexes).

⁶ First decision on the admission of victims to participate in trial proceedings, ICC-02/05-01/20-556.

⁷ Second Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-02/05-01/20-727 (with 31 confidential *ex parte* annexes).

⁸ Second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, ICC-02/05-01/20-728+728-Conf-Anx-Corr. None of the parties or participants responded to the Registry’s Report.

6. On 3 October 2022, the Chamber authorised the participation of the 31 victims in the present trial proceedings,⁹ and instructed the Registry to start mapping potentially eligible beneficiaries of reparations.¹⁰

7. On 31 October 2022, the Registry transmitted 101 victims' applications for participation from Group A,¹¹ as well as an accompanying assessment report.¹²

Applicable law

8. The Chamber incorporates by reference the general framework applicable to the assessment of victims' applications.¹³

Group A applications

9. The Registry has transmitted 101 new applications which it concludes fall within Group A. The Chamber accepts this assessment as they meet the required conditions for granting victim status under the Rule 85(a) Test. The Chamber has not identified any clear, material error in the Registry's assessment and therefore authorises their participation as victims.

10. A full list with the victims admitted to participate in trial is annexed to the present decision.

Legal representation

11. In line with the legal representation system already in place, the CLRV will represent the newly admitted victims.¹⁴

⁹ Second decision on the admission of victims to participate in trial proceedings, ICC-02/05-01/20-761.

¹⁰ Second decision on the admission of victims to participate in trial proceedings, ICC-02/05-01/20-761, paras 13-20.

¹¹ Third Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-02/05-01/20-804 (with 101 confidential *ex parte* annexes).

¹² Third Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-02/05-01/20-805 + 805-Conf-Anx. None of the parties or participants responded to the Registry's Report.

¹³ First decision on the admission of victims, ICC-02/05-01/20-556, para. 4.

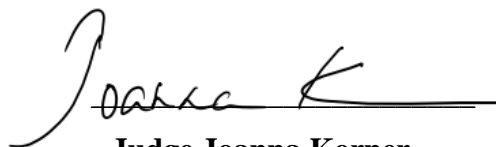
¹⁴ Decision on victims' participation, ICC-02/05-01/20-494, paras 7-13. Following a decision by the Chamber, the team representing the participating victims is presently composed of Ms von Winstinghausen and Mr Shah, *see* Transcript of hearing, 9 May 2022, ICC-02/05-01/20-T-038-CONF-ENG, p. 2, lines 9-14.

Dual status victims

12. Finally, the Chamber instructs the Registry to indicate, in consultation with the CLRV, whether any of the victims that have been granted status to participate pursuant to the Registry's second¹⁵ and third¹⁶ transmission of applications are also witnesses in the present proceedings (dual status victims). Hereafter, the Chamber instructs the Registry to provide this information to the Chamber whenever new victims are admitted to participate in the case.

13. For these reasons, the Chamber:

- i. Authorises the 101 new applicants identified in Group A of the Registry's Report to participate as victims in the trial proceedings;
- ii. Decides that the CLRV will represent the 101 new victims hereby authorised to participate in the proceedings henceforth;
- iii. Instructs the Registry to indicate, in consultation with the CLRV, whether any of the victims that have been granted status to participate pursuant to the Registry's second and third transmission of applications are also witnesses in the present proceedings; and to provide this information to the Chamber whenever new victims are admitted to participate in the case.



Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

Dated this 22 November 2022

At The Hague, The Netherlands

¹⁵ Second Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-02/05-01/20-727.

¹⁶ Third Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-02/05-01/20-804.