

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **6 February 2023**

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 “Common Legal Representative of Victims’ Request to present evidence and views and concerns”

Source: The Common Legal Representative of Victims

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

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I. Introduction

1. The Common Legal Representative of Victims (“CLRV”), on behalf of the 376 individuals presently admitted to participate as victims in the *Abd-Al-Rahman* proceedings, respectfully requests the Trial Chamber’s leave to present evidence and the views and concerns of participating victims.
2. The expected testimony of the one proposed witness will complement and assist the Chamber in assessing the evidence on the record regarding the circumstances and living conditions of participating victims who were displaced or who otherwise fled to the Republic of Chad, with particular focus on the situation of women and children. The witness’ expected evidence will genuinely contribute to the search for the truth and is not inimical to the accused’s fair trial rights.
3. The CLRV requests authorisation for four participating victims to appear before the Trial Chamber to present their views and concerns. The CLRV submits that the presentation of these views and concerns will measurably assist the Chamber in their understanding and assessment of the evidence of individual and community harm arising from the charged incidents in 2003 and 2004 in Kodoom and Bindisi, and in and around Deleig and Mukjar, in West Darfur State, Sudan. The presentation of *viva voce* views and concerns is also vital for and commensurate with the victims’ Article 68(3) participatory rights, in particular the opportunity and need to directly address and be heard by the Chamber on their personal stories and the impact of the charged crimes, as well as the meaning and significance of these judicial proceedings almost two decades after the events that are the subject of this case. This limited presentation is – by its very nature – only a discrete glimpse at the personal impact of the charged crimes on every single victim represented by the CLRV. However, the intention is for the Chamber to hear these victims’ own voices rather than for the CLRV to be their continuous echo. They are best placed to speak for themselves and their peers and to express themselves freely and as publicly as possible in this forum.

4. This filing is submitted confidential and *ex parte*, only available to the CLRV, as it contains confidential personally identifying information of participating victims and a potential witness that is not available to the parties. The CLRV will also file confidential and public redacted versions of her request.

II. Procedural history

5. On 4 October 2021, the Trial Chamber issued the *Directions on the conduct of proceedings*, in which it decided, *inter alia*, that any presentation of evidence by the CLRV and/or the views and concerns of participating victims, should the Chamber grant leave, would take place after the close of the Prosecution's evidence and prior to any presentation of evidence by the Defence.¹ The Chamber also advised that it may issue further directions at a later stage of the proceedings in relation to the possible presentation of a CLRV case.²
6. Following submissions by the parties and CLRV during a status conference held on 6 December 2022,³ on 15 December 2022, the Trial Chamber issued the *Second Directions on the conduct of proceedings*, setting 6 February 2023 as the deadline for submission of a CLRV request for leave to call evidence and/or for victims to present their views and concerns, and 31 March 2023, as the deadline for submission of a CLRV trial brief and to disclose any evidence the CLRV intends to rely on.⁴ By way of an email decision, the Trial Chamber has scheduled a CLRV case, should leave be granted, for the week of 22 to 26 May 2023.⁵

III. Submissions

7. The CLRV respectfully requests leave to call: (i) one witness, who is not a participating victim, and whose testimony will not touch on the charged events; and (ii) four participating victims to provide their views and concerns *viva voce* and hopefully in-person before the Trial Chamber.

¹ Directions on the Conduct of Proceedings, 4 October 2021, [ICC-02/05-01/20-478](#), para. 19.

² *Id.*, para. 21.

³ Hearing Transcript of 6 December 2022, [ICC-02/05-01/20-T-105-CONF-ENG ET.](#)

⁴ Second Directions on the conduct of proceedings, 15 December 2022, [ICC-02/05-01/20-836](#), para. 15.

⁵ Email from Trial Chamber I Legal Officer to the parties and participants, 1 February 2023.

8. The CLRV's proposal of these individuals to give evidence or present views and concerns was based on several factors, including the nature and content of the crime base evidence presented during the Prosecution's case, the particularities of the crimes charged arising from the four incidents that are the subject of this case, the passage of time since the charged events have taken place, the current and past locations and living circumstances of the participating victims in the five Sudanese states now comprising the Darfur region, Chad and the wider diaspora,⁶ and the very personal, but also representative nature of the evidence or views and concerns the individual is expected to provide.
9. After assessment of the crime base evidence presented and elicited during the Prosecution's case, it is the CLRV's view that there is sufficiently detailed, comprehensive, representative and compelling evidence on the record of the nature and circumstances of the alleged crimes arising from the attacks on Kodoom⁷ and Bindisi⁸ on 15 and 16 August 2003, and the detentions, torture, mistreatment, persecution, and execution of Fur civilians in and around Deleig⁹ and Mukjar¹⁰ from February to April 2004, that impacted the lives and futures of

⁶ Of the **376** participating victims, at least: **184** reside in Darfur (**66** in the [REDACTED] internally displaced person (IDP) camp, **57** in [REDACTED] IDP camps, and **63** in villages and towns); **4** in other areas of Sudan; **60** in IDP camps in Chad; and **26** in the wider diaspora. The statistics provided herein are primarily based on the **274** individuals who were admitted as participating victims in the Trial Chamber's first ([ICC-02/05-01/20-556](#)), second ([ICC-02/05-01/20-761](#)), and third ([ICC-02/05-01/20-817](#)) decisions on the admission of victims to participate in the proceedings. The CLRV does not yet have access to the applications of **95** of the **102** individuals who were admitted as participating victims on 1 February 2023 in the *Fourth Decision on the admission of victims to participate in the proceedings* ([ICC-02/05-01/20-861](#)) (the CLRV does have copies of the applications of seven of the newly admitted participating victims who are Prosecution witnesses, and in respect of whom the CLRV assisted in filling their applications following the conclusion of their testimony before the Chamber).

⁷ For the charges arising from the 15 August 2003 **Kodoom** attack, *see* the evidence and associated exhibits of witnesses: P-0029; P-0757; P-0867; P-0874; P-0878 (dual status); P-0918 (dual status); P-0921; P-0932 (dual status); P-0986 (dual status); P-1021. For sake of clarity, the CLRV notes that of the current number of **26** dual status victim-witnesses, only **six** individuals appeared before the Court while holding this status, the remainder having been admitted as participating victims after the conclusion of their testimony, or otherwise having their statements admitted under rules 68(2)(b) or 68(2)(c) of the Rules of Procedure and Evidence.

⁸ For the charges arising from the 15 and 16 August 2003 **Bindisi** attack, *see* the evidence and associated exhibits of witnesses: P-0007; P-0011 (dual status); P-0012 (dual status); P-0015 (dual status); P-0029; P-0085; P-0129 (dual status); P-0757; P-0816 (dual status); P-0867; P-0874; P-0878 (dual status); P-0913 (dual status); P-0917; P-0921; P-0922; P-0927; P-1021; P-1073 (dual status); P-1074.

⁹ For the charges arising from the detention and execution of Fur civilians in and around **Deleig**, *see* the evidence and associated exhibits of witnesses: P-0585 (dual status); P-0607; P-0617 (dual status); P-0643; P-0651; P-0671 (dual status); P-0697; P-0712; P-0718 (dual status); P-0725; P-0726; P-0736; P-0850; P-0883; P-0907 (dual status); P-0955 (dual status); P-0973 (dual status); P-0980; P-0994 (dual status).

¹⁰ For the charges arising from the detention and execution of Fur civilians in and around **Mukjar**, *see* the evidence and associated exhibits of witnesses: P-0008; P-0011 (dual status); P-0012 (dual status); P-0028; P-0129 (dual status); P-0584 (dual status); P-0581; P-0675; P-0720 (dual status); P-0756; P-0877 (dual status); P-

the 376 participating victims, their families, and the wider Fur community in the Wadi Salih and Mukjar localities of West Darfur State. The CLRV further notes that the Defence for Mr Abd-Al-Rahman, in large measure, does not, broadly speaking, contest the core of the crime base allegations in these proceedings – namely, that armed attacks and associated acts took place in Kodoom and Bindisi on 15 and 16 August 2003, and that members of the Fur community were detained and mistreated in and around the Deleig police station, and in the Mukjar police station in, from February to April 2004, some of whom were later executed.¹¹ Accordingly, the CLRV neither seeks leave to present evidence aimed at addressing any gaps or missing details in the crime base evidence presented during the Prosecution’s case, nor does she define her role in the proceedings as such.

10. Instead, both the expected evidence of the witness and views and concerns of the participating victims the CLRV proposes to call before the Chamber, are geared at assisting their Honours’ understanding and assessment of the evidence of individual and community harm arising from the charged events. During the Prosecution case the Trial Chamber received evidence on the harm arising from the attacks on Kodoom and Bindisi, including, *inter alia*, loss of homes, property, livestock, livelihoods, family members and community; the physical and psychological consequences of the attacks; the impacts of short and long-term internal and external displacement; and the effects of sexual violence on women and the wider community.¹² The Trial Chamber also received evidence on the

0892 (dual status); P-0903; P-0905; P-0913 (dual status); P-0916; P-0984 (dual status); P-0919 (dual status); P-0931 (dual status); P-0932 (dual status); P-0990.

¹¹ See, for example, cross-examination of P-0918, [ICC-02/05-01/20-T-077-CONF-ENG ET](#), p. 39, lines 19-24 (challenging the witness’ sightings of an individual he identified as Ali Kushayb at various locations, but not contesting the witness’ evidence that an attack took place on Kodoom on 15 August 2003, during which houses were burned and property looted); cross examination of P-1073, [ICC-02/05-01/20-T-103-CONF-ENG ET](#), p. 23, line 21 to p. 24, line 4 (not contesting the witness’ evidence that [REDACTED] the attack on Bindisi on 15 August 2003); cross-examination of P-0907, [ICC-02/05-01/20-T-096-CONF-ENG ET](#), p. 45, line 25, to p. 26, line 9 (not contesting the witness’ evidence that [REDACTED] Deleig detentions and executions); cross-examination of P-0919, [ICC-02/05-01/20-T-061-CONF-ENG CT](#), p. 30, lines 20-21 (not contesting the witness’ evidence that [REDACTED] Mukjar detentions and executions).

¹² Under counts 8 and 9 of the confirmed charges, the crime of rape as a crime against humanity and a war crime is alleged to have been perpetrated by Militia/Janjaweed and/or Government of Sudan forces during the 15 and 16 August 2003 attacks on Bindisi and surrounding areas.

individual and collective harm arising from the targeted arrests, detentions, torture, mistreatment and execution of members of the Fur community, including community leaders and prominent persons, that took place in and around Deleig and Mukjar between February and April of 2004.

11. This important evidence, however, was received in piecemeal fashion during the questioning of Prosecution witnesses whose testimony, understandably, was primarily focused on crime base evidence and matters central to the guilt or innocence of the accused, including the contested issue of the identity of the individual referred to by the nickname "Ali Kushayb". Relevant evidence of individual and collective harm was also admitted, in a more circumscribed manner, in the signed written statements of witnesses admitted under rules 68(3), 68(2)(b) and 68(2)(c) of the Rules of Procedure and Evidence.
12. The proposed witness testimony and views and concerns of participating victims will provide context, colour, and narrative structure to the above-noted evidence of individual and collective harm, thereby giving the participating victims the space and time they deserve to be heard and hopefully measurably assisting their Honours' understanding and assessment of this evidence.
13. The proposed witness testimony and views and concerns will also increase their Honours' understanding of the past and current circumstances of the participating victims, their families, and the wider Fur community in the Wadi Salih and Mukjar localities, following events that took place almost two decades ago. At least 60 of the participating victims are refugees and long-term residents of [REDACTED] internally displaced persons (IDP) camps in [REDACTED] Chad ([REDACTED] IDP camps). An additional 26 participating victims reside in the wider global diaspora as refugees or long-term residents of other states. The vast majority of the remaining participating victims remain in Darfur, including large numbers residing in the [REDACTED] IDP camp [REDACTED], spread among [REDACTED] IDP camps, or living as displaced persons in villages or towns.

14. The past and current circumstances and living conditions of participating victims are relevant not only to understanding the harm arising from the forcible transfer and displacement of civilians as a result of the 15 August 2003 attack on Kodoom, and 15 and 16 August 2003 attacks on Bindisi, but also in respect of those participating victims who became long-term displaced persons after a second attack on Kodoom at the end of August 2003, as well as individuals whose victim status is founded on the charged events in and around Deleig and Mukjar between February and April of 2004, which do not include allegations of forcible transfer as a crime against humanity. A proper appreciation of the individual and collective harm arising from the charged incidents in this case, as well as the stories of the victims themselves, must include an understanding of their personal journeys and circumstances in the almost two decades since the events that are the subject of this case, including issues such as access to medical and psychological support and care, education, work and employment opportunities, and quality and accessibility of housing and food supplies.
15. The testimony of the proposed witness and personal views and concerns of the four participating victims are expected to assist the Trial Chamber's insight into these different post-2004 journeys of the participating victims, as well as highlight the situation of women, children and the youth, to provide greater balance in the perspectives presented to the Trial Chamber thus far.
16. Additionally and importantly, the CLRV submits, based on her consultation with her clients, that the appearance of participating victims in-person before the Trial Chamber to present their views and concerns holds value and great significance for the community of participating victims, and serves as a measure of recognition and fulfilment by the Court of the victims' status and right to meaningfully participate in the ICC's proceedings.

Request for leave to call one witness who is not a participating victim

17. Proposed Witness DAR-CLR-P-0001, [REDACTED], is a woman of Fur ethnicity born in [REDACTED] in [REDACTED], West Darfur State, Sudan. She grew up in

[REDACTED]. In 2004, as a result of the ongoing conflict in Darfur, and following the killing of one of her sons by Janjaweed militia members, she and her family fled to **Chad**, eventually arriving at the [REDACTED] IDP camp in mid-2004.

18. Since her arrival at the [REDACTED] IDP camp to date, the witness has [REDACTED]. Farming is her primary livelihood. The witness is also familiar with the history of and living circumstances at the [REDACTED] IDP camp.

19. The witness is expected to testify about:

- i. Her basic biographical details.
- ii. Her arrival with her family in Chad in 2004, and the circumstances and living conditions for Darfuri refugees at this time, with particular focus on women and children.
- iii. The internal governance structures of the IDP camps.
- iv. How the circumstances and living conditions for Darfuri refugees, and in particular women and children, have changed over time at the [REDACTED] IDP camps, including in relation to housing, access to education and healthcare, food (in)security, employment and work opportunities, the status of and services for women victims of rape in particular, the ability and feasibility of travelling outside of the camps, and the mental health and well-being of women and children.

20. As a preliminary matter, the CLRV notes that nothing in the Court's legal texts, the Trial Chamber's first and second directions on the conduct of proceedings, or the Court's jurisprudence, preclude legal representatives from proposing a witness who is not a participating victim.¹³ Instead, the primary elements for consideration are whether the expected evidence will assist the Chamber in its

¹³ See, e.g., *Prosecutor v. Ongwen*, Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests, 6 March 2018, [ICC-02/04-01/15-1199-Red](#) (authorising expert witnesses proposed by the CLRV and LRV to appear before the Chamber); *Prosecutor v. Ntaganda*, Public redacted version of 'Decision on the request by the Legal Representative of the Victims of the Attacks for leave to present evidence and victims' views and concerns' (10 February 2017, ICC-01/04-02/06-1780-Conf), [ICC-01/04-02/06-1780-Red](#), para. 19 (accepting that a legal representative may propose a witness of fact who is not a participating victim, but rejecting the particular witness on grounds that the expected testimony would be overly repetitious of events addressed by Prosecution witnesses).

determination of the truth, implicates the personal interests of participating victims, and whether the hearing of such evidence is commensurate with the fair trial rights of the accused.¹⁴

21. The expected evidence of Witness DAR-CLR-P-0001 is relevant to the interests of at least sixty participating victims residing in the noted IDP camps in Chad. Given her personal history [REDACTED], her testimony will provide particular assistance to the Trial Chamber in its determination of the truth regarding the current circumstances of and harm to female participating victims arising from their forcible transfer and displacement from Bindisi and Kodoom in 2003, including victims of rape from Bindisi, as well as the children of participating victims who are being born and raised in the Chadian IDP camps. The CLRV considers Witness DAR-CLR-P-0001 to be best placed to share her observations that cover developments since 2003 / 2004, in comparison to any expert witness who may have conducted relevant research and interviews, but who would not be able to give the expected genuine account from the heart of the community, with a specific focus on the situation of women and children.
22. The estimated time of testimony for the witness is three hours, including potential questions from the parties and Trial Chamber. The witness is expected to testify in Sudanese Arabic, with Fur as a second option.

Request to call participating victim a/25009/21 to present views and concerns

23. Participating victim a/25009/21, [REDACTED], is of Fur ethnicity and is a former resident of **Bindisi**, who was present during the attack on the village on 15 August 2003. His father and other family members were killed during the attack, and the family home burned and looted. The participating victim fled to Mukjar, and eventually arrived in **Chad** as a refugee in 2004, settling at the [REDACTED] IDP camp. Since 2005, the participating victim has worked [REDACTED] in the camp.

¹⁴ *Prosecutor v. Lubanga*, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008, 11 July 2008, [ICC-01/04-01/06 OA 9 OA 10](#), paras 86-105.

24. The participating victim is expected to present views and concerns about:

- i. Life in Bindisi prior to the attack.
- ii. The Fur community in Bindisi, and communal connections between Bindisi and other villages in the area, such as Kodoom.
- iii. Fleeing from Bindisi after the 15 August 2003 attack and his eventual arrival in Chad.
- iv. Life as young adult refugee in Chad in 2004, and over the subsequent years, including discussion of the lives of his children born in the IDP camp.
- v. Harm suffered by the participating victim, his family, and his community arising from the attack on Bindisi.
- vi. The situation of children more generally in the IDP camp, including education and schooling.
- vii. Views of and expectations regarding the trial proceedings.

25. The CLRV notes that the participating victim makes several mentions of an individual he refers to as “Ali Kushayb” in his application for participation, in reference to events in Mukjar and other areas of Darfur subsequent to the attack on Bindisi. Participating victims a/25040/21 and a/15002/21 (see below), also mention the alleged presence or acts of an individual they identify as “Ali Kushayb” in their respective applications. These mentions are perhaps unsurprising given the particular allegations in this case regarding the alleged presence of an individual identified as “Ali Kushayb” at various locations during the relevant time period.

26. As indicated above,¹⁵ the CLRV does not seek leave to call witnesses who will give evidence about the charged events. Further, the CLRV has unambiguously advised these participating victims that the purpose of their proposed appearance is not directed at the alleged acts and conduct of “Ali Kushayb” in Darfur. The CLRV will additionally ensure through questions put to these participating

¹⁵ See para. 9 *supra*.

victims in-court to facilitate their efficient and effective presentation of views and concerns, that discussion of alleged acts and conduct of “Ali Kushayb” is not entered into. The CLRV respectfully submits that these safeguards are robust and sufficient to preserve the accused’s fair trial rights and interests, while also honouring and respectful of the victims’ rights to meaningfully participate in the proceedings.

27. The participating victim’s experience and his expected views and concerns are representative of other participating victims from **Bindisi** and **Kodoom** who were displaced or otherwise fled to the [REDACTED] IDP camps in Chad.
28. The estimated time for the participating victim to present his views and concerns is one and a half hours. The witness is expected to address the Chamber in Sudanese Arabic, with Fur as a second option.

Request to call participating victim a/10127/22 to present views and concerns

29. Participating victim a/10127/22, [REDACTED], is of Fur ethnicity and is a former resident of **Kodoom**, who was present during the attack on the village on 15 August 2003. A newlywed, her family home was damaged and property looted during the attack. She fled with her family into the woods and returned to Kodoom two days later. After a second attack on Kodoom at the end of August 2003, she fled to Mukjar, and by the end of 2003 had settled in an IDP camp in [REDACTED]. A close family member, [REDACTED],¹⁶ was among those detained and executed in the charged events in and around Mukjar in late February / March 2004.¹⁷ Since 2020, she has been [REDACTED].
30. The participating victim is expected to present views and concerns about:
- i. Life in Kodoom prior to the attack.
 - ii. The Fur community in Kodoom, and communal connections between Kodoom and other villages in the area, such as Bindisi.

¹⁶ The participating victim’s application form incorrectly identifies the deceased relative as [REDACTED].

¹⁷ See admitted exhibits DAR-OTP-00000014, row [REDACTED]; DAR-OTP-[REDACTED], row [REDACTED].

- iii. Fleeing from Kodoom after the 15 August and end of August 2003 attacks, and her eventual arrival at the IDP camp.
- iv. Life as young adult in an IDP camp in Darfur, and over the subsequent years, including discussion of the lives of her children born in the IDP camp.
- v. Harm suffered by the participating victim, her family, and her community arising from the charged attack on Kodoom.
- vi. The situation of women and children more generally in the IDP camp.
- vii. The search for her close family member detained and executed in the charged Mukjar events, and harm arising therefrom.
- viii. Views of and expectations regarding the trial proceedings.

31. The participating victim's experience and her expected views and concerns are representative of other participating victims from **Kodoom** and **Bindisi** who were displaced or otherwise fled to IDP camps within Darfur. In view of [REDACTED], the participating victim's views and concerns will particularly assist the Trial Chamber's understanding of the situation of women and the children of participating victims living in IDP camps in Darfur since the events of 2003 and 2004. The participating victim's experience and expected views and concerns are also representative of indirect participating victims from the charged **Mukjar** and **Deleig** incidents, and will assist the Chamber's understanding of the harm arising from these charges.

32. The estimated time for the participating victim to present her views and concerns is two hours. The witness is expected to address the Chamber in Fur.

Request to call participating victim a/25040/21 to present views and concerns

33. Participating victim a/25040/21, is of Fur ethnicity and is a former resident of [REDACTED], located to the southeast of Deleig. He was present during the large-scale attack on his village in December 2003, and fled with his family to the mountains. The participating victim arrived in **Deleig** with his family at the beginning of March 2004, and witnessed the charged events that took place at the

open area by the Deleig police station on Friday 5 March 2004, recognizing some of the detained individuals. In the early evening of the same day, while on the way to the home he was staying at, the participating victim encountered [REDACTED],¹⁸ who informed him of the executions that had taken place outside of Deleig. On Sunday 7 March, the participating victim fled Deleig with his family, arriving at [REDACTED] **IDP camp**, where he and his family have remained to this day. The participating victim is a close relative ([REDACTED])¹⁹ of two individuals alleged to have been executed during the charged events, including Umdah [REDACTED]. In the IDP camp the participating victim has worked as a [REDACTED]. He is a [REDACTED] and as such, has [REDACTED].

34. The participating victim is expected to present views and concerns about:

- i. Life in his village and the surrounding villages prior to the attack, including the communal connections between the villages in the area, and the community leadership structure and function in the region.
- ii. Fleeing from his village in December 2003, and his family's time in the mountains prior to arriving in Deleig.
- iii. Arrival in Deleig and events on Friday 5 March through Sunday 7 March 2004, including the spread and impact of news within the Fur community of the executions of detained persons.
- iv. Individual, family, and community harm arising from the charged Deleig incident.
- v. Life in the [REDACTED] IDP camp, and over the subsequent years, including community leadership structures, and discussion of the lives of his children and children more generally, most of whom were born in the IDP camp.
- vi. Views of and expectations regarding the trial proceedings, and his impression of the views of other participating victims he has been in contact with.

¹⁸ In this regard, *see, e.g.*, the evidence of [REDACTED].

¹⁹ The supplemental information to the participating victim's application form incorrectly refers to the two deceased individuals as [REDACTED] of the participating victim.

35. As indicated above, this participating victim also makes several mentions of an individual he refers to as “Ali Kushayb” in his application for participation, in reference to the attack on his home village, as well as the charged events in Deleig on Friday 5 March 2004. The CLRV has advised the participating victim that the purpose of his proposed appearance is not directed at the alleged acts and conduct of “Ali Kushayb” in Darfur, and will ensure through questions put to the participating victim in-court that discussion of alleged acts and conduct of “Ali Kushayb” is not entered into.
36. The participating victim’s experience and his expected views and concerns are representative of other direct and indirect participating victims from the **Deleig** and **Mukjar** charged incidents, and will assist the Chamber’s understanding of the harm arising from these charged events. The participating victim’s experience and life in the [REDACTED] IDP camp is also representative of the experience of participating victims from all four of the charged incidents who are either long-term residents of the IDP camp, [REDACTED], or who passed through this camp at some point in their lives.
37. The estimated time for the participating victim to present his views and concerns is two hours. The witness is expected to address the Chamber in Sudanese Arabic, with Fur as a second option.

Request to call participating victim a/15002/21 to present views and concerns

38. Participating victim a/15002/21, [REDACTED], is of Fur ethnicity and is a former resident of **Bindisi**, who was present during the attack on the village on 15 and 16 August 2003. A child at the time of the events, the participating victim’s father was killed during the attack. The participating victim sustained a grazing wound from a bullet, and fled into the fields and woods outside of the village. He was separated from his family, and detained in a Janjaweed camp for several weeks following the attack. He escaped from the camp and arrived in Mukjar, reuniting with the surviving members of his family. The participating victim and his family spent three years in the Kalma IDP camp, and then made their way to

[REDACTED], where the participating victim lived as a refugee through his early teenage years. The participating victim and some members of his family were then relocated to [REDACTED], where he is now a long-term resident.

39. As advised above, this participating victim likewise mentions an individual he refers to as “Ali Kushayb” in his application for participation, in reference to his time in the Janjaweed camp after the attack on Bindisi. The CLRV has also clearly advised this participating victim that the purpose of his proposed appearance is not directed at the alleged acts and conduct of “Ali Kushayb” in Darfur, and will ensure through questions put to the participating victim in-court that discussion of alleged acts and conduct of “Ali Kushayb” is not entered into.

40. The participating victim is expected to present views and concerns about:

- i. Life as a child in Bindisi prior to the attack.
- ii. The attack on Bindisi, fleeing from his village, and reuniting with his family in Mukjar.
- iii. Life as a child in the Kalma IDP camp.
- iv. Life as a child refugee in [REDACTED].
- v. Life as a child and young adult relocated in the West.
- vi. Individual, family, and community harm arising from the charged Bindisi incident.
- vii. Views of and expectations regarding the trial proceedings.

41. The participating victim’s experience and his expected views and concerns are representative of other participating victims who were children or young adults at the time of the charged incidents in **Bindisi** and **Kodoom**. The participating victim’s experience as a displaced person, refugee and then relocated person in the wider **diaspora** will be of particular assistance to the Trial Chamber’s understanding of the situation of other participating victims who are similarly situated.

42. The estimated time for the participating victim to present his views and concerns is one and a half hours. The witness is expected to address the Chamber in English.

IV. Disclosure of identities, protective measures, and other matters

43. The proposed witness and four participating victims have all consented to the disclosure of their identities – and in the case of the participating victims redacted versions of their application forms – to the parties in the event the Trial Chamber authorises their appearance.

44. It is in the participating victims' interest for most – if not all – of the proposed witness testimony and views and concerns to be provided in public, and the CLRV will endeavour to do so. However, and taking the safety and security of the proposed witness and her clients at its highest, the CLRV anticipates requesting protective measures for the in-court appearance of proposed Witness DAR-CLR-P-0001, and participating victims a/25009/21, a/10127/22, and a/25040/21, arising from their or their family members' location in Darfur, and in light of the current security situation on the ground there. At the present time, and following consultations with participating victim a/15002/21, the CLRV does not expect to request in-court protective measures for him, subject to the Victims and Witnesses Section's (VWS) eventual assessment of the participating victim's personal and family situation.

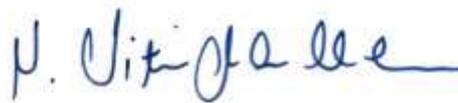
45. The CLRV additionally respectfully advises the Trial Chamber that, following consultations with the VWS, the VWS requires the issuance of a decision on the present CLRV request before [REDACTED]. In light of the time anticipated for this process, the CLRV would be grateful for the consideration and determination of this request in as prompt a manner as the Chamber deems feasible. Should clarifications be required, the CLRV suggests to deal with those orally during the hearings presently scheduled for 13 and 14 February 2023.

46. Based on her present assessment, the CLRV anticipates that the CLRV opening statement, and should leave be granted the CLRV case, would run for three or a maximum of four hearing days during the week of 22 to 26 May 2023.

V. Relief requested

47. For the reasons above, the CLRV respectfully requests the Trial Chamber to permit the CLRV to put on a case on behalf of the participating victims, and authorise the appearances of Witness DAR-CLR-P-0001, and participating victims a/25009/21, a/10127/22, a/25040/21, and a/15002/21.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'N. Wistinghausen', is centered on the page.

Natalie v. Wistinghausen
Common Legal Representative of Victims

Dated this 6th of February 2023

At Berlin, Germany