

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20
Date: 24 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

With 113 Confidential *EX PARTE* Annexes only available to the Registry

**Fifth Registry Transmission of Group A Applications for Victim Participation in
Trial Proceedings**

Source: The Registrar

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

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I. Introduction

1. On 19 October 2021, Trial Chamber I (“Chamber”) issued its “Decision on victims’ participation and legal representation in trial proceedings” (“Decision”),¹ in which it *inter alia* endorsed the victim application procedure previously adopted at the pre-trial stage of the proceedings (“Victim Application Procedure”).²
2. In compliance with the Decision, the Victims Participation and Reparations Section of the Registry (“VPRS”) shall:
 - i. classify victim applicants into three categories: (a) applicants who clearly qualify as victims (“Group A”); (b) applicants who clearly do not qualify as victims (“Group B”); and (c) applicants for whom the Registry could not make a clear determination for any reason (“Group C”) (“A-B-C Approach”), and
 - ii. transmit “to the Chamber, on a rolling basis and in unredacted form, all complete applications” relating to “crimes allegedly committed in 2003-2004 in Western Darfur”, and to disclose to the Prosecution and the Defence all Group C applications, redacted as needed.³
3. Accordingly, the present filing contains the fifth Registry transmission of Group A victim applications for participation in trial proceedings.

II. Procedural History

4. On 20 May 2021, Pre-Trial Chamber II (“PTC”) authorised 151 applicant victims to participate in the confirmation proceedings.⁴

¹ Trial Chamber I, “Decision on victims’ participation and legal representation in trial proceedings”, 19 October 2021, ICC-02/05-01/20-494.

² *Id.*, para. 15, referring in footnote 26 to the admission system established by Pre-Trial Chamber II in its “Decision establishing the principles applicable to victims’ participation and representation during the Confirmation Hearing”, 18 January 2021, ICC-02/05-01/20-259 (“18 January 2021 Decision”), paras 13-20 and 34.

³ 18 January 2021 Decision, para. 34.

⁴ Pre-Trial Chamber II, “Decision on victim applications for participation, legal representation, leave to appeal and *amicus curiae* requests, 20 May 2021, ICC-02/05-01/20-398, para. 50.

5. On 9 July 2021, PTC issued its decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb') ("Confirmation Decision").⁵
6. On 16 August 2021, the Chamber issued an order scheduling the first status conference, in which it *inter alia* requested the Registry to provide an update and forecast on victim applications to participate in the proceedings.⁶
7. On 1 September 2021, the Registry provided its update on victim participation.⁷
8. On 8 September 2021, the Chamber held the first status conference and set the start of the trial on 5 April 2022.⁸
9. On 19 October 2021, the Chamber issued the Decision, in which it adopted the Victim Application Procedure.⁹
10. Between 6 December 2021 and 31 October 2022, the VPRS transmitted 376 applications categorised as Group A,¹⁰ together with assessment reports thereon.¹¹

⁵ Pre-Trial Chamber II, "Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')", 9 July 2021, ICC-02/05-01/20-433.

⁶ Trial Chamber I, "Order scheduling first status conference", 16 August 2021, ICC-02/05-01/20-451, para. 2.

⁷ Registry, "Public redacted version of Update on Victim Applications for Participation", 1 September 2021, ICC-02/05-01/20-462-AnxII-Red.

⁸ Transcript of 8 September 2021, ICC-02/05-01/20-T-013. See Trial Chamber I, "Directions on the conduct of proceedings", 4 October 2021, ICC-02/05-01/20-478, para. 4.

⁹ Trial Chamber I, "Decision on victims' participation and legal representation in trial proceedings", 19 October 2021, ICC-02/05-01/20/494, para. 15.

¹⁰ Registry, "First Registry Transmission of Group A Applications for Victims' Participation in Trial Proceedings", 6 December 2021, ICC-02/05-01/20-529; "Second Registry Transmission of Group A Applications for Victims' Participation in Trial Proceedings", 25 August 2022, ICC-02/05-01/20-727; "Third Registry Transmission of Group A Applications for Victims' Participation in Trial Proceedings", 31 October 2022, ICC-02/05-01/20-804 and "Fourth Registry Transmission of Group A Applications for Victims' Participation in Trial Proceedings", 23 December 2022, ICC-02/05-01/20-840.

¹¹ Registry, "First Registry Assessment Report on Victim Applications for Participation in Trial Proceedings", 6 December 2021, ICC-02/05-01/20-528; "Second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings", 25 August 2022, ICC-02/05-01/20-728; "Third Registry Assessment Report on Victim Applications for Participation in Trial Proceedings", 31 October 2022, ICC-02/05-01/20-805; and "Fourth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings", 23 December 2022, ICC-02/05-01/20-841.

11. Between 14 January and 11 November 2022, the Chamber authorised the participation of 376 victims in the trial proceedings.¹²
12. The annexes to the present submission are classified as confidential *ex parte* only available to the Registry, in accordance with the Victim Application Procedure.¹³

III. Applicable Law

13. The Registry submits the present observations pursuant to article 68(1) and (3) of the Rome Statute, rules 85 to 89 and 92 of the Rules of Procedure and Evidence, regulation 86 of the Regulations of the Court, and regulations 107 to 109 of the Regulations of the Registry.

IV. Submissions

14. The VPRS hereby transmits to the Chamber 113 complete applications assessed as falling in Group A in unredacted form, in accordance with the Victim Application Procedure.¹⁴

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

Dated this 24 February 2023

At The Hague, the Netherlands

¹² Trial Chamber I, “Second decision on the admission of victims to participate in trial proceedings”, 3 October 2022, ICC-02/05-01/20-761; “Third decision on the admission of victims to participate in trial proceedings”, 11 November 2022, ICC-02/05-01/20-817; and “Fourth decision on the admission of victims to participate in trial proceedings”, 1 February 2023, ICC-02/05-01/20-861.

¹³ 18 January 2021, para. 34.

¹⁴ *Ibid.*