

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 10 May 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**

**Observations on behalf of Victims on the public redacted version of “Second Registry Request to Extend the Time Limit to Submit Victim Applications for Participation”**

**Source:** The Common Legal Representative of Victims

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**

Mr Cyril Laucci  
Mr Iain Edwards

**Legal Representative of the Victims**

Ms Natalie von Wistinghausen  
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**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

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**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

1. The Common Legal Representative of Victims (“CLR V”), on behalf of the 600 individuals presently admitted to participate as victims in the *Abd-Al-Rahman* proceedings, files these observations on the public redacted version of the “Second Registry Request to Extend the Time Limit to Submit Victim Applications for Participation”.<sup>1</sup>
2. In the CLR V’s view, the Registry has shown good cause under Regulation 35 of the Regulations of the Court for its requested limited modification of the current deadline for submission to the Trial Chamber of victims’ applications for participation (“Applications”), which is presently set at the conclusion of the CLR V case.<sup>2</sup> In particular, the Registry requests that this deadline be amended to permit:
  - i. applicants to submit their Applications to the Registry until the end of the CLR V’s case; and
  - ii. the Registry to transmit Applications to the Chamber thus received on a rolling basis, as soon as feasible.
3. The CLR V recalls and adopts her previous relevant submissions<sup>3</sup> on the Registry’s first request for extension of the deadline to submit Applications.<sup>4</sup> In particular, the CLR V files the present observations from the perspective of her mandate representing the interests and acting on behalf of the 600 individuals presently admitted to participate as victims,<sup>5</sup> as well as the prospective interests of individuals who may be granted the status of participating victim within the current deadline for submission of Applications. The CLR V’s observations also take into account the prospective interests of individuals to meaningfully

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<sup>1</sup> Public redacted version of “Second Registry Request to Extend the Time Limit to Submit Victim Applications for Participation”, 5 May 2023, [ICC-02/05-01/20-929-Red](#) (“Second Registry Request”).

<sup>2</sup> Decision on the Registry’s request for extension of time limit to submit victims’ applications for participation, 9 February 2023, [ICC-02/05-01/20-868](#), para. 22.

<sup>3</sup> Observations on behalf of Victims on the “Registry Request for Extension of Time Limit to Submit Victim Applications for Participation”, 3 January 2023, [ICC-02/05-01/20-843](#), para. 5.

<sup>4</sup> Registry Request for Extension of Time Limit to Submit Victim Applications for Participation, 22 December 2022, ICC-02/05-01/20-838-Conf-Exp. Confidential redacted (ICC-02/05-01/20-838-Conf-Red) and public redacted ([ICC-02/05-01/20-838-Red](#)) versions of the filing were submitted on the same day.

<sup>5</sup> See Sixth decision on the admission of victims to participate in trial proceedings, 10 May 2023, ICC-02/05-01/20-933.

participate as victims in the trial proceedings should such status be granted after the conclusion of the CLRV case. In the CLRV's view, several important procedural events will remain, including the defence case, and the CLRV's final trial brief and closing statement on behalf of the participating victims. Participating victims who are admitted after the close of the CLRV case will have the opportunity to provide their views and concerns to the Trial Chamber during these procedural junctures through consultation with and instructions provided to the CLRV. Additionally, the CLRV's consultations with and periodic updates to the victims on the status of the proceedings is an important and integral part of the process of meaningful participation.

4. In support of its application, the Second Registry Request avers that: (a) the outbreak of conflict in Sudan on 15 April 2023, has measurably impacted the availability and capacity of the intermediaries engaged by the Victims Participation and Reparations Section (VPRS) in Darfur to collect and transmit new Applications, as well as obtain information for incomplete Applications;<sup>6</sup> and (b) the recent increase in the number of Applications received has had a concomitant impact on the finite capacity of the Registry's Language Services Section to provide the required translations of Applications, the majority of which are handwritten and in Arabic, and some of which provide additional information technology complications due to poor visual quality.<sup>7</sup>
5. In the CLRV's view, these realities constitute good cause for the requested modification of the deadline for submission of Applications to the Trial Chamber. The outbreak of conflict in Sudan could not have been reasonably anticipated, and has understandably impacted the activities of the VPRS' interlocutors on the ground in the manner outlined in the Second Registry Request. Additionally, the CLRV considers that the deadline for submission of Applications to the VPRS for purposes of transmission to the Trial Chamber should relate to receipt of the original application, whatever its language, and not the translation thereof.

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<sup>6</sup> Second Registry Request, paras 11-16.

<sup>7</sup> *Id.*, para. 10.

Victim applicants should not be disadvantaged by limitations on the Court's translation resources where this impacts on the timeline for assessment of Applications by VPRS, and thereafter their transmission to the Chamber.

6. Admission of additional participating victims after the conclusion of the CLRV case will also have limited impact on the expeditiousness of the proceedings given the application of the 'A-B-C' approach in this case. The expeditiousness of the proceedings is of great importance to the participating victims, and the CLRV expects that any additional individuals admitted as victims prior to the conclusion of the CLRV case will likewise hold this view.
7. Similarly, admission of additional participating victims under the A-B-C approach will not impact the accused's right to an expeditious trial, nor otherwise compromise the fairness of the proceedings given the scope and purpose of procedural rights granted to participating victims in ICC trials, which are primarily directed at issues and interests other than the guilt or innocence of the accused.
8. The CLRV also notes her pending request to postpone the commencement of the victims' case.<sup>8</sup> Should the Trial Chamber grant a postponement, and should the Chamber likewise consider granting the Second Registry Request, the Trial Chamber may also wish to consider setting a final deadline for receipt of Applications by the Registry that is tied to a reasonably anticipated procedural event arising from the CLRV case – for example, the conclusion of the appearances of witness DAR-V47-P-0001 and participating victims DAR-V47-P-0002 (a/15002/18) and DAR-V47-P-0003 (a/25009/21).<sup>9</sup>

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<sup>8</sup> Public Redacted Version of "CLRV Request to postpone the commencement of the victims' case", ICC-02/05-01/20-931-Conf, 8 May 2023, 9 May 2023, [ICC-02/05-01/20-931-Red](#).

<sup>9</sup> As submitted by the CLRV, following the outbreak of conflict in Sudan on 15 April 2023, the timeline for participating victims DAR-V47-P-0004 (a/25040/21) and DAR-V47-P-0005 (a/10127/22), residing in Darfur, to appear before the Chamber, is uncertain at this stage (*id.*, paras 16-23).

**Conclusion**

9. For the reasons above, and in the CLRV's respectful view, the Registry has demonstrated good cause for grant of the requested modification of the deadline for submission of Applications during the trial stage of these proceedings.

Respectfully submitted,



Natalie v. Wistinghausen  
Common Legal Representative of Victims

Dated this 10 of May 2023

At Berlin, Germany