



**Original: English**

**No. ICC-02/05-01/20  
Date: 16 June 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 redacted version of the  
Second Decision on in-court protective measures**

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

**The Office of the Prosecutor**

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**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**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**  
Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**  
Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## **I. Procedural history**

1. On 31 May 2022, the Prosecution filed a request seeking in-court protective measures in respect of seven witnesses recently added to its List of Witnesses (the ‘LoW’). The Prosecution also foresees special measures in respect of four witnesses (the ‘Request’).<sup>1</sup>

2. On 13 June 2022, the Defence and the common legal representative for victims (the ‘CLRv’) filed their responses in support of the Request.<sup>2</sup>

## **II. Legal Framework**

3. The Chamber incorporates by reference the legal framework for the implementation of in-court protective measures and special measures in respect of witnesses in trial proceedings.<sup>3</sup>

## **III. Analysis**

4. The Chamber notes that all witnesses concerned live in Sudan (five of them [REDACTED]).<sup>4</sup>

5. As regards one witness, P-1047, an insider, the Chamber notes the Prosecution’s submission that in-court protective measures are necessary as he [REDACTED]. As such, he may be at risk from members of Sudan’s past and current government who fear being associated with the Darfur conflict, as well as associates of the accused, [REDACTED].<sup>5</sup> The Chamber notes that in respect of P-1047, the Prosecution solely requests the use of private sessions.<sup>6</sup>

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<sup>1</sup> Prosecution’s second request for in-court protective measures, ICC-02/05-01/20-697-Conf + Conf-Exp-AnxA & Conf-AnxA-Red A public redacted version was notified on 1 June 2022, ICC-02/05-01/20-697-Red, paras 8-14.

<sup>2</sup> Defence response to Prosecution’s second request for in-court protective measures, ICC-02/05-01/20-702; Observations on behalf of Victims on the “Prosecution’s second request for in-court protective measures”, ICC-02/05-01/20-703.

<sup>3</sup> Decision on in-court protective measures, 25 March 2022, ICC-02/05-01/20-645-Conf-Exp, paras 7-11. Confidential redacted and public redacted versions were notified on that same date, ICC-02/05-01/20-645-Conf-Red and ICC-02/05-01/20-645-Red2.

<sup>4</sup> Request, ICC-02/05-01/20-697-Conf, para. 3.

<sup>5</sup> Request, ICC-02/05-01/20-697-Conf, para. 18.

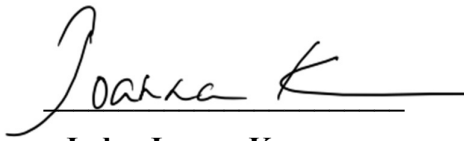
<sup>6</sup> Request, ICC-02/05-01/20-697-Conf-Red-AnxA, p.2.

6. As regards the remainder of the witnesses (crime base witnesses P-0916, P-0979, P-0999, P-1040, P-1073 and P-1074), the Chamber notes the Prosecution's submission that in-court protective measures (pseudonym, face and voice distortion and use of private sessions) are necessary so they give evidence freely without fear for their personal safety or social stigma and without compromising the security of family members as well as their own.<sup>7</sup> Additionally, in respect of four of these witnesses,<sup>8</sup> the Prosecution additionally foresees special measures, but refers this to the Registry's Victims and Witnesses Unit for further assessment.<sup>9</sup>

7. The Chamber further notes the Prosecution's submissions that the in-court protective measures sought are not prejudicial to the accused and that most of the testimonies will be given in public session.<sup>10</sup> Moreover, as noted above, the Defence and the CLRV support the Request.

62. Accordingly, the Chamber grants the Request in respect of P-0916, P-0979, P-0999, P-1040, P-1073, P-1074 and P-1047.

8. The Chamber instructs the VWU to assess the need for special measures and seize the Chamber of any request for special measures when it meets with the witnesses prior to their testimony.



**Judge Joanna Korner**

**Presiding Judge**



**Judge Reine Alapini-Gansou**



**Judge Althea Violet Alexis**

Dated this 16 June 2022

At The Hague, The Netherlands

<sup>7</sup> Request, ICC-02/05-01/20-697-Conf, paras 22-24 and Conf-Exp-AnxA.

<sup>8</sup> P-0979, P-1040, P-1073 and P-1074.

<sup>9</sup> Request, ICC-02/05-01/20-697-Conf, paras 13-14 and Conf-Exp-AnxA.

<sup>10</sup> Request, ICC-02/05-01/20-697-Conf, paras 23-24.