

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-02/05-01/20
Date: 23 October 2024**

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 one public Annex

Twelfth 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:

The Office of the Prosecutor

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Nazhat Shameem Khan
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Counsel for the Defence

Cyril Laucci
Iain Edwards

Legal Representatives of Victims

Natalie von Wistinghausen
Anand Shah

Legal Representatives of Applicants

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

Registrar

Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

1. On 19 October 2021, Trial Chamber I (the ‘Chamber’) issued a decision on victims’ participation and representation in trial proceedings (the ‘Decision on Victims’ Participation’),¹ 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 ‘CLRV’).
2. On 12 November 2021, upon a Defence request, the Chamber issued an oral decision confirming the use of the ABC Approach.²
3. Between 14 January 2022 and 14 August 2024, the Chamber issued ten decisions authorising the participation of a total of 1458 victims in the trial proceedings.³
4. On 17 October 2024, the Registry transmitted 129 victims’ applications from Group A,⁴ as well as an accompanying assessment report (the ‘Report’).⁵
5. On 18 October 2024, the CLRV sent an email requesting that the Chamber issues its decision on the status of the newly transmitted applications as soon as possible to allow them ‘to include some information and views and concerns raised by the applicants in the [f]inal [b]rief and during closing arguments’.⁶

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. The Chamber rejected the Defence’s request for leave to appeal. *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, ICC02/05-01/20-525; *See also* 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; Requête relative au processus d’admission des victimes à participer à la procédure, 22 Octobre 2021, ICC-02/05-01/20-497; Decision establishing the principles applicable to victims’ participation and representation during the Confirmation Hearing, 18 January 2021, ICC02/05-01/20-259.

³ First decision on the admission of victims to participate in trial proceedings, 14 January 2022, ICC-02/05-01/20-556 (the ‘First Decision on Admission of Victims’); 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, 22 November 2022, ICC-02/05-01/20-817; Fourth decision on the admission of victims to participate in trial proceedings, 1 February 2023, ICC-02/05-01/20-861; Fifth decision on the admission of victims to participate in trial proceedings, 10 March 2023, ICC-02/05-01/20-901; Sixth decision on the admission of victims to participate in trial proceedings, 10 May 2023, ICC-02/05-01/20-933; Seventh decision on the admission of victims to participate in trial proceedings, 16 August 2023, ICC-02/05-01/20-1001; Eighth decision on the admission of victims to participate in trial proceedings, 3 November 2023, ICC-02/05-01/20-1038; Ninth decision on the admission of victims to participate in trial proceedings, 12 March 2024, ICC-02/05-01/20-1100; Tenth decision on the admission of victims to participate in trial proceedings, 6 May 2024, ICC-02/05-01-20-1120; Eleventh decision on the admission of victims to participate in trial proceedings, 14 August 2024, ICC-02/05-01/20-1165.

⁴ Twelfth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 17 October 2024, ICC-02/05-01/20-1193, with 129 confidential *ex parte* annexes.

⁵ Twelfth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, ICC-02/05-01/20-1192, with a confidential annex.

⁶ Email from the CLRV at 12:01

6. On 22 October 2024, the Registry sent an email informing that: i) it had erroneously included in its transmission one application which it had assessed as falling outside the scope of the case or requiring additional information; and ii) omitted to include seven further applications it had assessed as falling within Group A.⁷ A corrected version of the Report was filed on the same day.⁸

7. In the circumstances, the Chamber finds it appropriate to issue the present decision without receiving any responses.

Applicable law

8. The Chamber incorporates by reference the general legal framework applicable to the assessment of victims' applications.⁹

Group A applications

9. The Registry has transmitted 128 new applications which meet the criteria for inclusion in Group A.¹⁰ The Chamber accepts this assessment as they meet the required conditions for granting victim status under the test set out in Rule 85(a) of the Rules of Procedure and Evidence. The Chamber has not identified any clear, material error in the Registry's assessment and therefore authorises their participation as victims.

10. A list of victims hereby admitted to participate in the present trial proceedings 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.¹¹

For these reasons, the Chamber:

- i. Authorises the 128 new applicants identified in the annex to participate as victims in the trial proceedings;

⁷ Email from the Registry at 13:01, *referring to* application a/10/188/22.

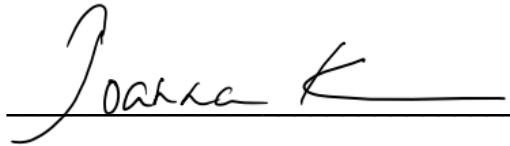
⁸ ICC-02/05-01/20-1192-Corr; ICC-02/05-01/20-1192-Conf-Anx-Corr.

⁹ First Decision on Admission of Victims, ICC-02/05-01/20-556, para. 4.

¹⁰ The Chamber excludes from its assessment application a/10188/22 which the Registry informed was erroneously included in its transmission (*see* Explanatory Note, 22 October 2024, ICC-02/05-01/20-1192-Corr-Anx, *referring to* ICC-02/05-01/20-1193-Conf-Exp-Anx97).

¹¹ Decision on victims' participation, 19 October 2021, ICC-02/05-01/20-494, paras 7-13. Following the Chamber's oral decision, the team representing the participating victims is presently composed of Ms von Wistinghausen and Mr Shah. *See* Transcript of hearing, 9 May 2022, ICC-02/05-01/20-T-038-Red, p. 2, lines 9-14.

- ii. Decides that the CLRV will represent the 128 newly admitted victims hereby authorised to participate in the proceedings henceforth; and
- iii. Authorises the Registry to file a thirteenth transmission with the additional seven applications for participation assessed as falling under Group A.



Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

Dated this 23 October 2024

At The Hague, The Netherlands