

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 10 March 2025

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 Document
With Confidential Annex

**Fourteenth Registry Assessment Report on Victim Applications for Participation
in Trial Proceedings**

Source: Registry

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ 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

Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☒ Victims Participation and
Reparations Section

☐ Other

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:
 - A. 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”),³ and
 - B. transmit complete applications to the Chamber and produce assessment reports periodically and on a rolling basis.⁴
3. The Registry hereby submits its fourteenth assessment report on a total of 36 complete applications to participate in the case of *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* (‘*Ali Kushayb*’) (“Applications” and “Case”, respectively).
4. The Applications are listed in the annex to the present submission (“Annex”) and are being transmitted separately to the Chamber in accordance with the Victim Application Procedure.⁵

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 Decision, paras 15 and 16 (ix).

⁵ 18 January 2021 Decision, para. 34.

II. Procedural History

5. On 20 May 2021, Pre-Trial Chamber II (“PTC”) authorised 151 applicant victims to participate in the confirmation proceedings (“20 May 2021 Decision”).⁶
6. On 9 July 2021, PTC issued its decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’) (“Confirmation Decision”).⁷
7. On 19 October 2021, the Chamber issued the Decision, in which it adopted the Victim Application Procedure.⁸
8. On 14 January 2022, the Chamber authorised the 142 applicants to participate as victims in the trial proceedings.⁹ It further instructed the Registry to report on its reassessment of 21 pre-trial applications, which contained narratives that needed to be verified with the Common Legal Representative of Victims (“CLRV”) for clarity.¹⁰
9. Between 3 October 2022 and 23 October 2024, the Chamber issued 11 additional decisions on victims’ applications,¹¹ bringing the total number of participating victims in the trial proceedings to 1592 victims.¹²

⁶ 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.

⁷ 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.

⁸ Trial Chamber I, “Decision on victims’ participation and legal representation in trial proceedings”, 19 October 2021, ICC-02/05-01/20/494, para. 15. On 16 May 2023, the Chamber set the deadline for victims to submit to the Registry applications to participate in the proceedings to 7 June 2023, see “Decision on the Second Registry’s Request to Extend the Time Limit to Submit Victim Applications for Participation”, 16 May 2023, ICC-02/05-01/20-943, para. 12(a) and (c).

⁹ Trial Chamber I, “First decision on the admission of victims to participate in trial proceedings”, 14 January 2022, ICC-02/05-01/20-556, para. 10 (“14 January 2022 Decision”).

¹⁰ *Id.* para. 6.

¹¹ 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; “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; and “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

III. Classification

10. Pursuant to regulation 23*bis*(1) of the Regulations of the Court ("RoC") and in accordance with the Victim Application Procedure,¹³ the Annex to the present report is classified as confidential.

IV. Applicable Law

11. 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 RoC, and regulations 107 to 109 of the Regulations of the Registry.

V. Submissions

A. Reassessment of victim applications admitted at the confirmation of charges stage

12. The 36 applications listed in the Annex and presently transmitted under Group B include seven applications from victims that had previously been admitted to participate during the pre-trial stage.¹⁴
13. In accordance with the 14 January 2022 Decision,¹⁵ the VPRS has liaised with the CLRV to consider whether the application forms captured the full account of the

trial proceedings", 12 March, 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; and "Twelfth decision on the admission of victims to participate in trial proceedings", 23 October 2024, ICC-02/05-01/20-1197

¹² The VPRS discovered that two victims authorised to participate at the trial stage had erroneously submitted two different application forms each. The VPRS therefore considered accordingly a/10018/22 as a duplicate of a/25132/21, and a/05403/23 as a duplicate of a/05073/23. As a result, while the Chamber issued positive decisions for 1594 applications, only 1592 applicants are authorized to participate in the proceedings.

¹³ 18 January 2021 Decision, para. 34.

¹⁴ a/2747/10, a/25177/21, a/25175/21, a/25153/21, a/25147/21, a/25099/21 and a/25094/21.

¹⁵ 14 January 2022 Decision, para.10.

respective applicants before re-assessing, in light of the confirmed charges, whether they remain within Group A.

14. Following consultations with the CLRV and the receipt of additional information,¹⁶ the VPRS considers that each of the seven applications fall now within Group B.

B. Details on the assessment criteria applied to new victim applications falling within Group B

15. Applying the criteria set out in paragraph 16 of the 18 January 2021 Decision,¹⁷ the VPRS has assessed each of the 36 Applications transmitted herewith under Group B as complete.
16. In conducting its *prima facie* assessment in accordance with the Victim Application Procedure,¹⁸ the Registry has concluded that these applicants clearly do not qualify as victims in the Case since their alleged harm has resulted from events falling outside the territorial, temporal, and/or material parameters of the Case.
17. Some applicants explained that they suffered harm as a result of crimes committed in villages surrounding Kodoom, Bindisi or Deleig (such as Seder, Merly, Gausir or Taringa)¹⁹. Others refer to crimes committed in Mukjar, but outside its police station and adjacent detention facilities (such as in the applicant's home or at a primary school)²⁰.
18. In terms of the temporal scope, the VPRS considered applications as outside the scope of the Case when the applicant explicitly mentions a date of relevant events clearly outside of scope of the Confirmation Decision - without providing any contextual elements that would clearly indicate that the victim must have erred as to the time of events. Similarly, the Registry has considered that vague time indications are detrimental to an application where the supporting documentation

¹⁶ The VPRS received additional information for a/2747/10, a/25153/21 and a/25175/21.

¹⁷ 18 January 2021 Decision, para. 16.

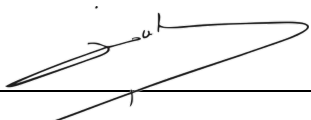
¹⁸ 18 January 2021 Decision, para. 17.

¹⁹ See for instance a/05255/23, a/10358/22, a/10146/22 or a/05785/23

²⁰ See for instance a/05459/23 or a/10504/22.

indicates that the applicant did not appear to be present at the time of the relevant events.²¹

19. The Annex contains an overview of the reasons for rejecting each application to assist the Chamber in its decision on said applications.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 10 March 2025

At The Hague, The Netherlands

²¹ See for instance a/25175/21. The applicant's identification document indicates his arrival as a refugee in a neighboring country in August 2003.