

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Adélaïde Sophie 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 Confidential Annex 1**

CLRV's Additional Submissions on Reparations

Source: Common Legal Representative of Victims

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☒ Legal Representatives of the Victims

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☐ Unrepresented Victims

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(Participation/Reparation)

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I. INTRODUCTION

1. Pursuant to the Chamber's Order,¹ the Common Legal Representatives of the victims ("CLRV") hereby submits her additional observations on the amount of liability, including any calculation of the cost to repair the harm caused by the crimes of which Abd-Al-Rahman was convicted, as well as the possibility of setting different amounts for the types of harm.

2. The CLRV has endeavoured to gather as much contemporary information as possible through her Field Assistants, as well as through trusted interlocutors in various locations across Darfur and Chad. In addition to the Annexes submitted with previous written submissions, which set out certain costs and her clients' views regarding reparations,² the CLRV now provides estimates of certain programme-related costs, including possible administrative costs, that may be required for the implementation of proposed forms and modalities of reparations.

3. Annex 1 to these submissions sets out a detailed list of current and indicative costs of goods and services in Darfur and Chad, which may be incurred to implement reparatory measures as part of the proposed modalities. These costs are based on credible and reliable open-source material and cost information provided by Field Assistants. The table is intended solely to serve as a reference for the Trial Chamber in its consideration of potential compensation costs, as well as to assist the Chamber in its determination of the total costs for reparations.³ The CLRV's ability to provide concrete numbers is limited in the circumstances as known by the Chamber and thus she cannot guarantee the accuracy of the figures provided but can say without reservation that interlocutors and other sources were diligently consulted.

4. Notwithstanding the costs and figures provided, what clearly emerged from the CLRV's consultations with her clients is that she cannot support the proposition that a predetermined amount of reparations should be fixed for each harm suffered, as suggested by the Defence.⁴ As set out in her previous submissions,⁵ and further confirmed through more recent consultations with local interlocutors, such an approach appears more likely to be detrimental than beneficial to victims. It risks establishing an undesirable hierarchy of harms, generating tensions among the victims' community, and creating unrealistic expectations.

5. The needs of the victims are immense and the absence of any assistance to date must be addressed without further delay. Following the reparations hearing and the TFV's submissions,⁶

¹ [ICC-02/05-01/20-1364](#), paras 3-4.

² See [ICC-02/05-01/20-1344-Conf-Anx2B](#) (Outcome of Reparation Questionnaire); [ICC-02/05-01/20-1344-Conf-Anx3B](#) (Statistical Outcome of the Reparation Questionnaire); [ICC-02/05-01/20-1356-Anx1](#) (Construction Costs and General Price Indicators); [ICC-02/05-01/20-1363-Conf-Anx2B](#) (Updated Outcome of Reparation Questionnaire as at 14 September 2026); [ICC-02/05-01/20-1363-Conf-Anx3B](#) (Updated Statistical Outcome of the Reparation Questionnaire as at 14 September 2026).

³ Annex 1.

⁴ Defence Response to Reparations, [ICC-02/05-01/20-1354](#), para. 31.

⁵ CLRV Response to Observations on Reparations, [ICC-02/05-01/20-1356-Conf](#), paras 25-26.

⁶ [T-168-CONF](#): p. 65, lines 10-16; p. 71, line 8 – p. 75, line 8.

the CLRV remains uncertain as to the Court's capacity to implement reparations in the Darfur situation. In light of this uncertainty, the CLRV wishes to make the following additional observations. Where reparations projects can't be implemented within a reasonable timeframe, consideration should be given to providing an interim financial amount to address victims' most immediate needs pending the implementation of such projects.⁷ This individual compensation should in no way be considered as representing the extent of the harm suffered by the victims and can only be purely symbolic.

II. CONFIDENTIALITY

6. Subject to the provisions of Regulation 23*bis* (1) and (2) of the Regulations of the Court, the CLRV files Annex 1 as Confidential as it refers to confidential information relating to participating victims.

III. SUBMISSIONS

A. Amount of liability

7. Although the CLRV has made substantial submissions on types and modalities of reparations to meaningfully repair her clients, she took no position as to the number of direct and indirect victims who are potential beneficiaries.⁸ As the total number of beneficiaries is relevant to determine the amount of liability required to repair the harm suffered,⁹ the CLRV leaves it to the discretion of the Chamber to fix the amount it deems appropriate, but provides the following submissions on certain aspects to assist the Chamber in its determination.

8. In other cases, LRVs have contributed to the assessment of costs of reparations to varying degrees, and Trial Chambers have relied on such contributions to varying extents.¹⁰ This illustrates that the costs of reparations must be considered with respect to its own circumstances and facts. As has been emphasised on several occasions, the situation in Darfur is unique. The region continues to be affected by an ongoing armed conflict and now also severe and persistent inflation. Moreover, as no assistance programme was developed and implemented by the TFV, unlike in other trials, no previous experience exists that the CLRV could base her submissions on. Indeed, in *Ongwen*, the Trial Chamber relied on the experience of the TFV in providing rehabilitative assistance in Northern Uganda to more than 60,000

⁷ [T-168-CONF](#): p. 125, line 17 – p. 127, line 22.

⁸ CLRV Submissions on Reparations, [ICC-02/05-01/20-1344-Conf](#), para. 39.

⁹ *Ntaganda* Appeals Judgment on Reparations, [ICC-01/04-02/06-2782](#), para. 235.

¹⁰ See e.g. *Lubanga* OPCV Submissions for the Determination of Reparations, [ICC-01/04-01/06-3360-tEng](#), paras 35-40; *Ntaganda* OPCV Submissions on Reparations, [ICC-01/04-02/06-2477-Red](#), paras 74-75; *Al Hassan* LRVs Observations on Reparations, [ICC-01/12-01/18-2732-Red](#), para. 31; *Ongwen* CLRVs Submissions on Reparations, [ICC-02/04-01/15-1923-Red](#), paras 94, 97-99, 102, 104, 105, 108, 110 and Annexes 1, 2 and 5.

victims for an estimated amount of 12 million euros.¹¹ In *Ntaganda*, the Trial Chamber also relied on estimates provided by the TFV based on “figures for 10 projects conducted in Ituri since July 2020 under its assistance mandate, which, it submits, are comparable to a collective reparation programme with individualised components”.¹² In *Al Hassan*, the Trial Chamber relied upon the TFV’s experience in costing and implementing reparations in *Al Mahdi*.¹³

9. This has two important implications for the present submissions: (i) the participating victims and the wider victims in the present case have never received any assistance from the Court, despite the pressing nature and scale of their needs; and (ii) unlike in situations where an assistance mandate was already in place and functioning in parallel to the trial proceedings, the TFV has not been in a position to draw on existing programmes in Darfur and/or Chad to provide sufficiently reliable estimates of the costs that would be required.¹⁴

10. More significantly, the TFV, which possesses the specific expertise required to assess the costs associated with the implementation of reparations measures, has not provided any cost estimates so far, maintaining instead that such estimates could only be determined at the implementation stage.¹⁵

11. While the CLRV understands the rationale advanced by the TFV for avoiding the adoption of a fixed amount for each type of reparations modality, in favour of an approach based on the harm suffered and greater flexibility at the implementation stage,¹⁶ she remains unclear as to how this approach affects the determination of the total amount of liability of Mr Abd-Al-Rahman. The determination of such an amount is, in any event, a necessary element of the Reparations Order.¹⁷

i. Further provision of certain costs in Darfur and Chad

12. With the present submissions, the CLRV seeks to assist the Chamber by providing additional estimates of costs of potential reparations programs and projects, and associated goods and services, in Darfur and Chad. Once again, and consistently with the approach adopted by the CLRV throughout her written and oral submissions,¹⁸ these estimates should be understood as indicative only, as prices are likely to vary from one location to another and the

¹¹ *Ongwen* Decision on the Draft Implementation Plan, [ICC-02/04-01/15-2106](#), paras 26-29; *Ongwen* TFV Observations on Reparations, [ICC-02/04-01/15-1992](#), para. 75.

¹² *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), para. 241 referring to TFV Final Submissions, [ICC-01/04-02/06-2635-Red](#), paras 59-62.

¹³ *Al Hassan* Reparations Order, [ICC-01/12-01/18-2782](#), paras 231, 233, 235, 239, 246.

¹⁴ *Ongwen* Decision on the Draft Implementation Plan, [ICC-02/04-01/15-2106](#), paras 26-29; *Ntaganda* Decision on TFV’s Draft Implementation Plan, [ICC-01/04-02/06-2696](#), paras 24-29; *Lubanga* Decision on Implementation of Collective Reparations, [ICC-01/04-01/06-3495-Red](#), para. 158; *Katanga* TFV Draft Implementation Plan, [ICC-01/04-01/07-3751](#), paras 76-79.

¹⁵ [T-168-CONF](#); p. 72, line 23 – p. 74, line 19.

¹⁶ [T-168-CONF](#); p. 72, line 23 – p. 74, line 19.

¹⁷ *Al Hassan* Reparations Order, [ICC-01/12-01/18-2782](#), para. 18.

¹⁸ CLRV Submissions on Reparations, [ICC-02/05-01/20-1344-Conf](#), paras 262-263; CLRV Response to Observations on Reparations, [ICC-02/05-01/20-1356-Conf](#), para. 27.

volatile economic and security situation adds to the uncertainty.¹⁹ These days, the CLRV Field Assistants and interlocutors have indicated that prices are increasing on a daily basis as a result of inflation.

13. Annex 1 sets out basic needs identified by the CLRV and her Field Assistants to meaningfully implement the following modalities of reparations: education; health; psychological support; livelihood and income-generating activities; water and sanitation; restoration of institutions; necessary infrastructure; land mapping; shelter and energy; and individual rehabilitation. The Annex then sets out indicative prices of various goods and services in Darfur and Chad which may be relevant for the implementation of reparatory measures as part of these modalities, in both locations. The Annex provides considerations as to quantities, duration and delivery formats where possible.

14. Importantly, the CLRV stresses that Annex 1 are based on figures provided by Field Assistants and trusted interlocutors, as well as extensive open-source research. However, considering the role and limited programming capacity of the CLRV, these estimates cannot be verified. These consultations and research are meant to assist the Chamber in making its own calculations as to total liability, based on its determination as to the final number of eligible victims and appropriate modalities of reparations it intends to order.

ii. Support/administrative costs should be separated from the amount of liability dedicated for the direct benefit of the victims

15. It is important for the Chamber to establish both the amount necessary to repair the harm suffered by the victims and, separately, the amount required to cover the administration/support costs required to implement the reparations. Ensuring that these costs are separately itemised will allow for more transparency for victims, as well as donors, and provide due diligence to all actors involved. This is especially since these costs can represent large sums. In previous cases, the TFV has factored up to 15% in programme support costs for locally based implementing partners.²⁰

16. The Court's approach to separating or including administration or support costs in the total amount of liability has differed.²¹ The TFV has explained in other cases that certain direct

¹⁹ Annex 1.

²⁰ See *Katanga* Draft Implementation Plan, [ICC-01/04-01/07-3751](#), para. 111; *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 763.

²¹ See *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), paras 213, 236 (v): “programme support costs, referring to indirect administrative and management costs incurred by a partner organisation in support of project implementation at approximately 15% of the direct project costs and to the costs of monitoring, evaluation, and reporting by partner organisations at approximately 3% of the direct costs”; *Lubanga* TFV First Update Report on Implementation of Reparations, [ICC-01/04-01/06-3568-Red](#), para 11, fn 14; *Al Mahdi* Decision on Updated Draft Implementation Plan, [ICC-01/12-01/15-324-Red](#), para. 96. See *others which combined programme costs*: *Ntaganda* Addendum to the Reparations Order, [ICC-01/04-02/06-2858-Red](#), paras 345, 348; *Ongwen* Decision on Draft Implementation Plan, [ICC-02/04-01/15-2106](#), paras 23-29.

and indirect costs are incurred for the implementation of reparations, whether as individual compensation or other types of reparations.²²

17. Support costs have previously included “[m]onitoring, verification checks and quarterly monitoring missions”; “capacity building sessions between implementing partners”; and “results-based management tools and individualised victim management tools”.²³ In *Ntaganda* for instance, indirect costs represented an approximate additional 1.21 million US dollars.²⁴ The CLRV consequently suggests that the Chamber determines the amount of liability strictly to be used for reparations for the victims and – separately – determines the amount of liability for administrative/support costs.

18. The TFFV will incur important administrative and support costs in training and supporting the local implementation partners. These will, by nature, include “central administration, central programme/department administration, other internally and externally provided services, and programme/departmental programme services (central/strategic planning, resource mobilization, and reporting)”.²⁵ Another example of administrative costs is the certain percentage of a financial (symbolic) compensation – if ordered – for transfer fees which are not strictly speaking reparations for the benefit of the beneficiary, but are inevitable.²⁶

19. These administrative, support, and indirect costs should therefore be accounted for separately, through a distinct budgetary envelope, so as to ensure that the funds allocated by the Chamber for the implementation of reparations are not reduced by costs necessary to support their effective delivery. The latter should be ordered “on top”.

iii. The impact of inflation in Sudan on the implementation of reparations and the instability of the Sudanese currency

20. The Sudanese pound has experienced a dramatic depreciation, with severe consequences for families and households. This has very recently been reported by Field Assistants and interlocutors consulted by the CLRV and is also documented by available economic data and other credible sources.²⁷ It can be seen over the course of this year alone. In

²² *Ntaganda* TFFV Observations on Reparations, [ICC-01/04-02/06-2476](#), paras 131-136.

²³ *Ntaganda* TFFV’s Fifth Update Report on the Implementation of Reparations, [ICC-01/04-02/06-2927-Red](#), paras 129-130.

²⁴ *Ntaganda* TFFV’s Draft Implementation Plan, [ICC-01/04-02/06-2750-Anx1](#), para 269. “The implementing partners will have additional indirect costs of repair for running the programme and monitoring and evaluating the programme. In accordance with its own budget guidelines, the Trust Fund budgets an additional maximum of **15 percent** for indirect costs and **3 percent** for monitoring and evaluation, i.e. an additional USD 1.21 million.”

²⁵ *Ongwen* TFFV’s Observations on Reparations, [ICC-02/04-01/15-1992](#), fn. 129 referring to the TFFV’s 2020 Budget Format Guidelines “that specify eligible costs under administrative cost category” including indirect costs/programme or project support costs.

²⁶ See Bank Transfer Fees in Annex 1: **Darfur**: Mukjar: 40%, Bindisi: 45%; Kalma: 40%, Deleig: 50%; **Chad**: 10%. See further *Ongwen* Decision on Draft Implementation Plan, [ICC-02/04-01/15-2106](#), para. 28.

²⁷ Al Jazeera, “[Collapsing currency and inflation leave families struggling in Sudan](#)”, 24 September 2026; Sudan Tribune, “[Sudan annual inflation hits 26.14% in August as currency swings bite](#)”, 23 September 2026; World Bank Group, [Inflation, consumer prices \(annual %\) - Sudan](#). In 2022, the annual inflation rate was at 359% in 2021, and 138% in 2022. See also African Development Bank, [Sudan Economic Outlook](#).

January 2026, USD 1 was worth approximately 2,400 Sudanese pounds.²⁸ By 15 October 2026, USD 1 was worth approximately 7,800 Sudanese pounds.²⁹ This substantial loss of value means that more than three times as many Sudanese pounds are now required to purchase the same goods or services.

21. Against this background, the practice of other international adjudicative bodies may provide useful guidance as to how inflation can be taken into account. While the jurisprudence of the International Court of Justice does not directly address inflation, in the *DRC v. Uganda* case, Judge Tomka drew attention to the potential impact of inflation on the real value of compensation where payment is made by instalments, years after the events and stated that its value required protection from the Court.³⁰ The ECHR has adopted different approaches to addressing the effects of inflation when determining a fair compensation, but has ensured that the compensation awarded adequately reflects the loss sustained over time by looking at inflation indicia.³¹

22. As a result, the CLRV requests the Chamber to take the Sudanese inflation rate into consideration when ordering the total amount of liability, which reflects the cost of inflation since the commission of the crimes, as well as the period of implementation of reparations.

B. Schedule of harm and amounts of ‘*pretium doloris*’

23. The CLRV does not support the proposition made by the Defence concerning the creation of specific amounts of *pretium doloris*. She also does not support the creation of a schedule of harms. Both would have the unwanted effect of creating a hierarchy of harm and raising expectations that the Court will unlikely be able to meet. Moreover, the decontextualization of overlapping and compounding harm is predestined to create tensions within the community.

24. *Pretium doloris* seeks to place a value or price on the temporary or permanent suffering of victims.³² The ILC has recognised it as an “indemnity for physical suffering (so-called “moral damage” in a narrow sense)”.³³ It is one form of compensation alongside physical, moral

²⁸ UN Treasury, [UN Operational Rates of Exchange](#) (Sudan - History).

²⁹ UN Treasury, [UN Operational Rates of Exchange](#) (Sudan).

³⁰ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Reparations Judgment, I.C.J. Reports 2022, p. 13, [Declaration of Judge Tomka](#), para. 10. Judge Tomka noted that the 2022 Judgment “does not take into account that, with the passage of time, the real value of the compensation awarded and still remaining to be paid in instalments, will diminish due to inflation and the decrease in the purchasing power of the US dollar”.

³¹ *Maksimikha v. Ukraine*, [Judgment](#), App. No. 43483/02, para. 27: “the applicant presented calculations based on the average consumer prices inflation index and certified by the Crimean Department of the State Committee for Statistics.”; *Akdivar et al. v. Turkey*, [Judgment \(Article 50\)](#), App. No. 99/1995/605/693, para. 34: “Having regard to the high rate of inflation in Turkey these amounts have been converted into pounds sterling in order to preserve their value at the rate applicable when the commission of experts made its estimates, i.e. 17 September 1997. At that date one pound sterling (GBP) was worth TRL 271,530 (the purchase price according to the exchange rates operated by the Turkish Central Bank).”

³² Dictionnaire du Droit Privé: [Définition de « *pretium doloris* »](#)

³³ Yearbook of the International Law Commission, 1989, Vol. 2, Part I, [A/CN.4/SER.A/1989/Add. 1](#), fn. 112.

and material harm,³⁴ and as such, it forms one component of the full amount of damages awarded to an injured claimant. Numerous domestic jurisdictions give a specific quantification of *pretium doloris* compensation, which is also known as “damages for pain and suffering” in common law jurisdictions.³⁵ In contrast, such tables for *pretium doloris* have never been adopted within an international criminal tribunal.

25. Given its character, the CLRV submits that such type of compensation may be adequately encompassed within the symbolic awards ordered by this Court, either as a form of individual reparation³⁶ and/or collective community reparations.³⁷ The ICC has considered that symbolic awards aim to acknowledge, in a personal and symbolic sense, the harm done and suffering occasioned to victims.³⁸ It is also intended to help contribute to processes of rehabilitation.³⁹ The aims and functions of symbolic awards therefore overlap with the concept of *pretium doloris* compensation, and thus no actual need to create a specific form of *pretium doloris* reparation can be seen.

26. The quantification of *pretium doloris* in domestic jurisdictions is highly dependent on the facts of the specific case and the nature of the injuries sustained by an individual victim, as well as the impairment suffered, which normally requires a complex medico-legal assessment. Where it may be possible to identify, specify and quantify the harm suffered by a single or a small number of victims in a national case who have received medical and/or psychological treatment, and possess medical records or written records of material costs endured, it is far more difficult – if not impossible – to apply such a standard in an ICC trial. Similar concerns have already been raised before this Court. The Trial Chamber in *Al Mahdi* considered with approval that “[t]here is an inherent difficulty in addressing and measuring monetary values [...] ‘a price cannot be put on dignity, as it cannot be put on faith, and so both are that much more difficult to restore.’”⁴⁰

³⁴ Dictionnaire du Droit Privé : [Définition de « pretium doloris »](#)

³⁵ For instance, in **France**, the “[Fonds de garantie des victimes des actes de terrorisme et d’autres infractions](#)” have provided compensation to the victims of the Bataclan attack of November 2015 in Paris. Compensation is granted on the basis of medical expertise and the minimum compensation is 30.000 euros, but can go up to several millions. See further [here](#) and [here](#). In the Province of **Québec, Canada**, victims of criminal acts can apply and receive compensation that will be calculated on the basis of expertise, following different category of gravity and permanence of the damages. See Compilation of Québec Laws and Regulations c P-9.2.1 [Act to assist persons who are victims of criminal offences and to facilitate their recovery](#) and specifically [regulation 1](#). In **Australia**, compensation tables are used for different types of personal injuries to ascertain a Whole Body Impairment percentage, which is then used to quantify the requisite amount of pain and suffering damages in civil suits. See Australia Comcare, Guide to the Assessment of the Degree of Permanent Impairment Edition 3.0, [Schedule 1](#); Victoria Government Gazette, [No. S363](#), 30 June 2026, pp. 6-7 (for example of amounts payable).

³⁶ *Katanga* Reparations Order, [ICC-01/04-01/07-3728-t-ENG](#), paras 298-300.

³⁷ *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 631.

³⁸ *Katanga* Reparations Order, [ICC-01/04-01/07-3728-t-ENG](#), para. 298.

³⁹ *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 620; *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), para. 208.

⁴⁰ *Al Mahdi* Reparations Order, [ICC-01/12-01/15-236](#), para. 129.

27. What is more, there are immense difficulties in creating a universal and standardised table for various types of harm, as well as for *pretium doloris* compensation. Indeed, the LRVs in *Lubanga* considered that for types of harm such as “emotional, aesthetic, sexual and reproductive harm (*pretium doloris*) – no objective assessment is possible because they are irreparable by nature”.⁴¹ These difficulties are obvious in cases of macro criminality like that suffered in the present case, where the victims go in the thousands.

28. The ability for schedules to apply to all situations and cases at the Court will also prove difficult due to various cultural, political and economic contexts. Engaging an expert for creating “a schedule providing specific amounts of *pretium doloris* for the various types of harm” is therefore not required. It will incur unnecessary costs to the Court that will be better invested in reparations for the victims and will cause further delays. In addition, the Defence’s proposition that this expert could create a schedule “to be usable across various ICC cases, irrespective of the situation country”, to be used “in combination with the country's applicable GDP”, is unrealistic.⁴² Not only do living costs vary significantly from one country to another, independently of the GDP, but such an approach could also create false expectations among victims’ communities, and fail to account for their specific circumstances and needs.

29. For instance, the Darfuri community applies the *diya*, which is to be paid by a perpetrator to a victim’s family or their heirs. The appropriate *diya* is subject to several factors, including the status of the person that was killed.⁴³ Causing intentional death would range between the payment of 30 to 50 cows (approximately 30,000-50,000 euros), the highest end representing compensation when the victim has a specific status such as an *umdah*. The Defence does not specify why *diya* would not be appropriate in these circumstances.⁴⁴ This notwithstanding, the CLRV’s Field Assistants and other interlocutors were clear: there is no support from participating victims for allocating a specific amount of money to a specific type of harm. Loss of life was given as example: *diya* cannot be replaced by a symbolic sum. However, *diya* may differ from other methods of calculating moral harm in other communities, and therefore the creation of schedules which are crosscutting between situations at the Court does not seem appropriate or responsive to specific cultural methods of reparation.

30. The CLRV would similarly submit that the creation of schedules setting different amounts for types of harm in the present case is inappropriate. The harm suffered by the victims of the crimes committed by Mr Abd Al Rahman is overlapping and cumulative – and still ongoing to this day. The ability to accurately quantify each harm and the totality of the suffering

⁴¹ *Lubanga* LRV (V01) Submissions on Determination of Reparations, [ICC-01/04-01/06-3359-tENG](#), para. 42.

⁴² Defence Response to Reparations, [ICC-02/05-01/20-1354](#), para. 31.

⁴³ See Annex 4 of REDRESS Submissions on Reparations, [ICC-02/05-01/20-1346-AnxIV](#).

⁴⁴ Defence Response to Reparations, [ICC-02/05-01/20-1354](#), para. 31.

by each victim is not possible and it is not what the participating victims are expecting the Court to do.

31. Importantly, the CLRV shares the view of her clients that providing a monetary schedule for harm will - even if unintentionally - create a perceived “hierarchy of harms”. If certain harms are “priced” higher than others, it may suggest that some are considered more or less serious than others and will create tension and frustration. It will also create a reasonable expectation by victims to receive a certain total amount of reparations if they qualify for a certain harm(s). Undertaking the analysis of which victims can be eligible for which harms, and how much they are entitled to, will also cause a cumbersome administrative exercise that will undoubtedly create further delays. One would have to go back to every single applicant and verify and quantify the harm suffered.

32. The CLRV reiterates that she does not want to create expectations with respect to reparations that can never be met by this Court. She has been consistently clear with her clients about the realities of the Court’s reparations scheme. Presenting unachievable expectations to the victims will cause more harm, and inventing new compensation lists and schemes will not advance the TFV in the difficulties it will face in implementing a reparations order in the present case, to the contrary.

i. Amounts of a possible symbolic award

33. While a symbolic sum cannot and will not repair the harm the victims have suffered, it can provide the ability for victims to address their most dire and pressing needs until rehabilitation and restorative measures can be implemented for the long-term. As found by the Chamber the *Ongwen* case, the victims are best placed to address their own immediate needs.⁴⁵

34. In determining the amount of a symbolic award, this Court has taken different approaches,⁴⁶ however the Appeals Chamber has been clear that prior determinations of awards should not be a precedent for future awards.⁴⁷

35. In other international tribunals, the determination of symbolic awards, or damages for moral harm has also differed. At the Cour Pénale Spéciale in Central African Republic, the Appeals Chamber awarded individual compensation of 350.000 francs for the family of a deceased victim.⁴⁸ At the Extraordinary African Chambers reparations were ordered for the

⁴⁵ *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), paras 624-625.

⁴⁶ See *Katanga* Reparations Order, [ICC-01/04-01/07-3728-tENG](#), para. 300 (250 USD); *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), paras 626-630 (750 euros, primarily utilising the award in *Katanga* as a point of reference); *Al Mahdi* Reparations Order, [ICC-01/12-01/15-236](#), para. 106 (1 euro to the Malian State).

⁴⁷ *Katanga* Appeals Judgment on Reparations, [ICC-01/04-01/07-3778-Red](#), para. 149.

⁴⁸ *Sallet et al.*, [Arrêt n°15 relatif à l'appel interjeté contre le jugement n°001-2023 du 16 juin 2023 de la Première Section d'Assises](#), Dispositif, para. 6 (350.000 CFA francs = 533 euros). For instance, the family of an individual with three widows and eleven children received 350.000 francs.

7,696 named victims, ranging between 10-20 million CFA francs for each victim.⁴⁹ None of these processes seem appropriate here. The numbers of victims are much lower than in the present case, and since the victims were named, no eligibility process was required. Regional human rights courts otherwise quantify an amount of moral prejudice based on the principle of equity and all the circumstances of the case.⁵⁰ Those amounts are never based on a pre-established schedule of harm.

36. The CLRV further notes that contrary to the Defence's submissions, the REDRESS submissions were not supporting the adoption of compensation based on the assessment of each harm, but rather the adoption of a minimum sum for individuals as a measure of satisfaction.⁵¹ This was also supported by the GLAN submissions.⁵²

37. In her previous submissions, the CLRV already highlighted the varying opinions given by her clients in consultations on the amount of any symbolic award, and their views concerning the provision of individual financial compensation generally.⁵³ For these reasons, she avoided the provision of a specific sum. Any fixed amount to be paid to the victims should, if ordered, be thoroughly explained by the Chamber as NEITHER reflecting the actual harm suffered as a consequence of the crimes committed by Mr Abd Al Rahman NOR the full suite of their actual needs, but as being purely symbolic and declaratory as to the victimhood as such and the right to compensation.

Respectfully submitted,



Natalie v. Wistinghausen
Common Legal Representative of Victims

Dated this 16th of October 2026
At Berlin, Germany

⁴⁹ See REDRESS, "[Briefing Paper: What Reparations for Hissène Habré's Victims?](#)", January 2025, p. 2: ("damages of 82 billion CFA francs (approximately 130 million USD) to 7,396 named victims (20 million CFA francs for each victim of rape and sexual slavery, 15 million CFA francs for each victim of arbitrary detention, torture and other inhuman treatment and survivors of massacres, and 10 million CFA francs for each indirect victim").

⁵⁰ **ACtHR**: *Beneficiaries of Late Norbert Zongo et al. v. Burkino Faso*, [Judgment \(Reparations\)](#), App. No. 013/2011, paras 57-62 (where 25 million CFA per spouse, 15 million CFA per child, and 10 million CFA per mother or father was awarded for victims of murdered family members); *ACHPR v Kenya* (Ogiek Case), [Judgment \(Reparations\)](#), App. No. 006/2012, paras 78-93 (where approx. USD 800,000 awarded for victims of breach of right to property of ancestral land); **IACtHR**: *Goiburú et al. v. Paraguay*, [Judgment \(Merits, Reparations and Costs\)](#), paras 156-161 (where amounts between USD 10,000-50,000 awarded for victims of arbitrary detention, torture, and enforced disappearance); *Velásquez-Rodríguez v. Honduras*, [Judgment \(Reparations and Costs\)](#), paras 27, 50-52 (where approx. USD 10,000 awarded to wife and children as victims of enforced disappearance); **ECtHR**: *Varnava et al. v. Turkey*, [Judgment](#), paras 224-225 (where 12,000 euros awarded for victims of enforced disappearance); *Al-Jedda v United Kingdom*, [Judgment](#), para. 114 (where 25,000 euros awarded for victim of unlawful detention of 3 years).

⁵¹ [ICC-02/05-01/20-1346-Red](#), para. 27.

⁵² [ICC-02/05-01/20-1345-Red](#), paras 31-32; [T-168-CONF](#): p. 125, line 17 – p. 127, line 22.

⁵³ CLRV Submissions on Reparations, [ICC-02/05-01/20-1344-Conf](#), paras 109-127.