



Original: **English**

No.: **ICC-02/05-01/20**  
Date: **27 October 2020**

**TRIAL CHAMBER I**

**Before:** Judge Joana 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 Confidential Annex A**

**Prosecution’s notification of the disclosure of evidence**

**Source:** Office of the Prosecutor

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 QC

Mr Julian Nicholls

**Counsel for the Defence**

Mr Cyril Laucci

Mr Iain Edwards

**Legal Representatives of the Victims**

Ms Natalie von Wistinghausen

Mr Nasser Mohamed Amin Abdalla

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Section**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

## I. INTRODUCTION

1. The Prosecution hereby notifies Trial Chamber I (“Chamber”) of the disclosure of evidence pursuant to articles 64(3)(c) and 67(1)(a) and (b) of the Rome Statute, and rules 76(3) and 77 of the Rules of Procedure and Evidence.

## II. CLASSIFICATION

2. This filing is classified as public with one confidential annex, comprising the lists of evidence disclosed to the Defence. These annex is classified as confidential since it contains confidential information.

## III. SUBMISSIONS

3. On 26 October 2021, the Prosecution disclosed to the Defence the following five packages of evidence consisting of 231 items (1.146 pages).

- Pre-trial Rule 77 package 41 containing 28 items (66 pages), which includes material related to 11 witness<sup>1</sup>;
- Pre-trial Rule 77 package 42 containing 40 items (41 pages), which includes expenses related to certain provisional trial witnesses;
- Pre-trial Rule 77 package 43 containing 9 items (77 pages), which includes material related to witness DAR-OTP-P-1011;
- Pre-trial INCRIM package 74 containing 76 items (420 pages), which includes material related to 17 witnesses;<sup>2</sup> and
- Pre-trial INCRIM package 75 containing 78 items (542 pages), which includes material related to 15 witnesses<sup>3</sup> as well as a video depicting Mr Abd-Al-

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<sup>1</sup> DAR-OTP-P-0026, DAR-OTP-P-0037, DAR-OTP-P-0083, DAR-OTP-P-0085, DAR-OTP-P-0086, DAR-OTP-P-0092, DAR-OTP-P-0116, DAR-OTP-P-0671, DAR-OTP-P-0918, DAR-OTP-P-0988 and DAR-OTP-P-0992.

<sup>2</sup> DAR-OTP-P-0008, DAR-OTP-P-0015, DAR-OTP-P-0016, DAR-OTP-P-0023, DAR-OTP-P-0028, DAR-OTP-P-0037, DAR-OTP-P-0106, DAR-OTP-P-0592, DAR-OTP-P-0606, DAR-OTP-P-0657, DAR-OTP-P-0822, DAR-OTP-P-0878, DAR-OTP-P-0879, DAR-OTP-P-0883, DAR-OTP-P-0919, DAR-OTP-P-0921 and DAR-OTP-P-0987.

<sup>3</sup> DAR-OTP-P-0020, DAR-OTP-P-0029, DAR-OTP-P-0043, DAR-OTP-P-0060, DAR-OTP-P-0105, DAR-OTP-P-0106, DAR-OTP-P-0108, DAR-OTP-P-0581, DAR-OTP-P-0769, DAR-OTP-P-0892, DAR-OTP-P-0919, DAR-OTP-P-0927, DAR-OTP-P-0973, DAR-OTP-P-0987 and DAR-OTP-P-0992.

Rahman, along with its transcript and translation into English.<sup>4</sup> This video was discussed in the hearing held on 25 October 2021 and further disclosed in accordance with the Chamber's instructions.<sup>5</sup>

4. With respect to redactions, the Prosecution re-disclosed items with less redactions and applied "standard" redactions to new items as stipulated in the procedure for exceptions to disclosure that was adopted in this case by the Single Judge of Pre-Trial Chamber II on 17 August 2020.<sup>6</sup> One item in Pre-trial Rule 77 package 41 is disclosed with identity redactions already approved by the Pre-trial Chamber II. These redactions are minimal and affect neither the substance of the material nor the ability of the Defence to comprehend it.



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**Karim A. A. Khan QC**

**Prosecutor**

Dated this 27<sup>th</sup> day of October 2021

At The Hague, The Netherlands

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<sup>4</sup> DAR-OTP-0215-2697 (video), DAR-OTP-0215-7145 (transcript), and DAR-OTP-0215-7148 (translation).

<sup>5</sup> ICC-02/05-01/20-T-15-ENG ET, page 15, lines 1-8, page 19, lines 21-25, page 20, lines 1-4 and instructions received via email dated 26 October 2021 at 13:26.

<sup>6</sup> *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, Order on disclosure and related matters, 17 August 2020, ICC-02/05-01/20-116, paras. 12-13.