

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **22 February 2023**

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 Confidential Annex A**

**Prosecution’s notification of the disclosure of evidence between 18 July 2022 and 17
February 2023**

Source: Office of the Prosecutor

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

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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 list of evidence disclosed to the Defence. This annex is classified as confidential since it contains confidential information.

III. SUBMISSIONS

3. Between 18 July 2022 and 17 February 2023, the Prosecution disclosed to the parties and participants 95 packages of evidence, consisting of 538 items¹ (4.413 pages):
 - Trial INCRIM package 144, containing 6 items (36 pages), related to 5 witnesses;²
 - Trial INCRIM package 145, containing 3 items (6 pages), related to 2 witnesses;³
 - Trial INCRIM package 146, containing 3 items (7 pages), related to 1 witness;⁴
 - Trial INCRIM package 147, containing 3 items (29 pages), related to 2 witnesses;⁵
 - Trial INCRIM package 148, containing 9 items (198 pages), including 4 items related to 3 witnesses;⁶
 - Trial INCRIM package 149, containing 2 items (20 pages), including 1 item related to 1 witness;⁷

¹ Certain items may have been disclosed in more than one package. Of the 535 items, 90 INCRIM items (1.410 pages) were re-disclosed either with certain redactions lifted or with additional redactions, applied upon agreement with the Defence (DAR-OTP-00000367, DAR-OTP-0223-0519 and DAR-OTP-0223-0525). 6 Rule 77 items (44 pages) were re-disclosed with certain redactions lifted.

² DAR-OTP-P-0581, DAR-OTP-P-0932, DAR-OTP-P-0955, DAR-OTP-P-0986 and DAR-OTP-P-1034.

³ DAR-OTP-P-0932 and DAR-OTP-P-0984.

⁴ DAR-OTP-P-0932.

⁵ DAR-OTP-P-0718 and DAR-OTP-P-0913.

⁶ DAR-OTP-P-0878, DAR-OTP-P-0935 and DAR-OTP-P-1021.

⁷ DAR-OTP-P-0918.

- Trial INCRIM package 150, containing 8 items (27 pages), related to 3 witnesses;⁸
- Trial INCRIM package 151, containing 1 item (3 pages), related to 1 witness;⁹
- Trial INCRIM package 152, containing 12 items (46 pages), related to 3 witnesses;¹⁰
- Trial INCRIM package 153, containing 4 items (12 pages), related to 2 witnesses;¹¹
- Trial INCRIM package 154, containing 30 items (424 pages), related to 5 witnesses;¹²
- Trial INCRIM package 155, containing 5 items (96 pages), related to 2 witnesses;¹³
- Trial INCRIM package 156, containing 4 items (10 pages);
- Trial INCRIM package 157, containing 9 items (26 pages), related to 3 witnesses;¹⁴
- Trial INCRIM package 158, containing 13 items (37 pages), related to 3 witnesses;¹⁵
- Trial INCRIM package 159, containing 2 items (5 pages), related to 1 witness;¹⁶
- Trial INCRIM package 160, containing 4 items (12 pages), related to 2 witnesses;¹⁷
- Trial INCRIM package 161, containing 3 items (9 pages), related to 1 witness;¹⁸
- Trial INCRIM package 162, containing 11 items (39 pages), related to 2 witnesses;¹⁹

⁸ DAR-OTP-P-0877, DAR-OTP-P-0913 and DAR-OTP-P-0922.

⁹ DAR-OTP-P-0916.

¹⁰ DAR-OTP-P-0129, DAR-OTP-P-0878 and DAR-OTP-P-0918.

¹¹ DAR-OTP-P-0816 and DAR-OTP-P-0883.

¹² DAR-OTP-P-0129, DAR-OTP-P-0131, DAR-OTP-P-0756, DAR-OTP-P-0874 and DAR-OTP-P-1021.

¹³ DAR-OTP-P-0874 and DAR-OTP-P-0994.

¹⁴ DAR-OTP-P-0874, DAR-OTP-P-0905 and DAR-OTP-P-0927.

¹⁵ DAR-OTP-P-0867, DAR-OTP-P-0879 and DAR-OTP-P-0905.

¹⁶ DAR-OTP-P-0994.

¹⁷ DAR-OTP-P-0007 and DAR-OTP-P-0921.

¹⁸ DAR-OTP-P-0007.

¹⁹ DAR-OTP-P-0011 and DAR-OTP-P-0935.

- Trial INCRIM package 163, containing 3 items (12 pages), related to 1 witness;²⁰
- Trial INCRIM package 164, containing 4 items (59 pages), related to 2 witnesses;²¹
- Trial INCRIM package 165, containing 1 item (4 pages), related to 1 witness;²²
- Trial INCRIM package 166, containing 6 items (49 pages), including 4 items related to 4 witnesses;²³
- Trial INCRIM package 167, containing 3 items (10 pages), related to 2 witnesses;²⁴
- Trial INCRIM package 168, containing 1 item (3 pages), related to 1 witness;²⁵
- Trial INCRIM package 169, containing 3 items (33 pages), related to 2 witnesses;²⁶
- Trial INCRIM package 170, containing 4 items (6 pages), related to 3 witnesses;²⁷
- Trial INCRIM package 171, containing 1 item (1 page), related to 1 witness;²⁸
- Trial INCRIM package 172, containing 2 items (20 pages), including 1 item related to 1 witness;²⁹
- Trial INCRIM package 173, containing 6 items (31 pages), including 5 items related to 3 witnesses;³⁰
- Trial INCRIM package 174, containing 4 items (19 pages), related to 1 witness;³¹
- Trial INCRIM package 175, containing 15 items (59 pages), including 1 item related to 1 witness;³²

²⁰ DAR-OTP-P-0011.

²¹ DAR-OTP-P-0011 and DAR-OTP-P-0926.

²² DAR-OTP-P-0671.

²³ DAR-OTP-P-0015, DAR-OTP-P-0584, DAR-OTP-P-0675 and DAR-OTP-P-1073.

²⁴ DAR-OTP-P-0015 and DAR-OTP-P-0907.

²⁵ DAR-OTP-P-0547.

²⁶ DAR-OTP-P-0769 and DAR-OTP-P-1074.

²⁷ DAR-OTP-P-0131, DAR-OTP-P-0671 and DAR-OTP-P-0769.

²⁸ DAR-OTP-P-0585.

²⁹ DAR-OTP-P-0697.

³⁰ DAR-OTP-P-0697, DAR-OTP-P-0917 and DAR-OTP-P-1073.

³¹ DAR-OTP-P-1074.

³² DAR-OTP-P-1074.

- Trial INCRIM package 176, containing 5 items (5 pages);
- Trial INCRIM package 177, containing 28 items (405 pages), including 26 items related to 7 witnesses;³³
- Trial INCRIM package 178, containing 5 items (14 pages), related to 4 witnesses;³⁴
- Trial INCRIM package 179, containing 2 items (5 pages), including 1 item related to 1 witness;³⁵
- Trial INCRIM package 180, containing 13 items (31 pages), including 8 items related to 6 witnesses;³⁶
- Trial INCRIM package 181, containing 4 items (23 pages), related to 4 witnesses;³⁷
- Trial INCRIM package 182, containing 2 items (8 pages), related to 2 witnesses;³⁸
- Trial INCRIM package 183, containing 5 items (11 pages), including 1 item related to 1 witness;³⁹
- Trial INCRIM package 184, containing 3 items (33 pages), including 1 item related to 1 witness;⁴⁰
- Trial INCRIM package 185, containing 4 items (10 pages), including 5 items related to 3 witnesses;⁴¹
- Trial INCRIM package 186, containing 3 items (8 pages), related to 3 witnesses;⁴²

³³ DAR-OTP-P-0008, DAR-OTP-P-0589, DAR-OTP-P-0717, DAR-OTP-P-0834, DAR-OTP-P-0884, DAR-OTP-P-0885 and DAR-OTP-P-0992.

³⁴ DAR-OTP-P-0028, DAR-OTP-P-0041, DAR-OTP-P-0607 and DAR-OTP-P-0885.

³⁵ DAR-OTP-P-0885.

³⁶ DAR-OTP-P-0016, DAR-OTP-P-0096, DAR-OTP-P-0725, DAR-OTP-P-0973, DAR-OTP-P-1048 and DAR-OTP-P-1062.

³⁷ DAR-OTP-P-0060, DAR-OTP-P-0757, DAR-OTP-P-1061 and DAR-OTP-P-1062.

³⁸ DAR-OTP-P-1061 and DAR-OTP-P-1062.

³⁹ Item DAR-OTP-00000983 was erroneously titled as related to DAR-OTP-P-0096, rather than DAR-OTP-P-0013. As the document was signed by DAR-OTP-P-0013, it was not possible to conduct an image update disclosure without hindering the authenticity of the item.

⁴⁰ DAR-OTP-P-1062.

⁴¹ DAR-OTP-P-0040, DAR-OTP-P-0921 and DAR-OTP-P-1049.

⁴² DAR-OTP-P-0617, DAR-OTP-P-0917 and DAR-OTP-P-0918.

- Trial INCRIM package 187, containing 1 item (2 pages), related to 1 witness;⁴³
- Trial INCRIM package 188, containing 1 item (1 page), related to 1 witness;⁴⁴
- Trial Rule 77 package 103, containing 10 items (25 pages), related to 4 witnesses;⁴⁵
- Trial Rule 77 package 104, containing 1 item (12 pages), related to 1 witness;⁴⁶
- Trial Rule 77 package 105, containing 1 item (3 pages), related to 1 witness;⁴⁷
- Trial Rule 77 package 106, containing 13 items (405 pages), related to 7 witnesses;⁴⁸
- Trial Rule 77 package 107, containing 3 items (235 pages), related to 1 witness;⁴⁹
- Trial Rule 77 package 108, containing 3 items (7 pages), related to 3 witnesses;⁵⁰
- Trial Rule 77 package 109, containing 2 items (8 pages), related to 2 witnesses;⁵¹
- Trial Rule 77 package 110, containing 1 item (14 pages), related to 1 witness;⁵²
- Trial Rule 77 package 111, containing 1 item (14 pages), related to 1 witness;⁵³
- Trial Rule 77 package 112, containing 4 items (41 pages), related to 4 witnesses;⁵⁴
- Trial Rule 77 package 113, containing 3 items (21 pages), related to 3 witnesses;⁵⁵
- Trial Rule 77 package 114, containing 2 items (7 pages), related to 2 witnesses;⁵⁶

⁴³ DAR-OTP-P-0039.

⁴⁴ DAR-OTP-P-0675.

⁴⁵ DAR-OTP-P-0123, DAR-OTP-P-0581, DAR-OTP-P-0955 and DAR-OTP-P-0986.

⁴⁶ DAR-OTP-P-0984.

⁴⁷ DAR-OTP-P-0932.

⁴⁸ DAR-OTP-P-0026, DAR-OTP-P-0129, DAR-OTP-P-0589, DAR-OTP-P-0714, DAR-OTP-P-0757, DAR-OTP-P-0867 and DAR-OTP-P-0894.

⁴⁹ DAR-OTP-P-0129.

⁵⁰ DAR-OTP-P-0918, DAR-OTP-P-1018 and DAR-OTP-P-1021.

⁵¹ DAR-OTP-P-0584 and DAR-OTP-P-0913.

⁵² DAR-OTP-P-0883.

⁵³ DAR-OTP-P-0916.

⁵⁴ DAR-OTP-P-0129, DAR-OTP-P-0584, DAR-OTP-P-0585 and DAR-OTP-P-0918.

⁵⁵ DAR-OTP-P-0816, DAR-OTP-P-0874 and DAR-OTP-P-0878.

⁵⁶ DAR-OTP-P-0085 and P-0878.

- Trial Rule 77 package 115, containing 2 items (28 pages), related to 2 witnesses;⁵⁷
- Trial Rule 77 package 116, containing 6 items (37 pages), related to 5 witnesses;⁵⁸
- Trial Rule 77 package 117, containing 5 items (47 pages), related to 4 witnesses;⁵⁹
- Trial Rule 77 package 118, containing 4 items (27 pages), related to 3 witnesses;⁶⁰
- Trial Rule 77 package 119, containing 1 item (5 pages), related to 1 witness;⁶¹
- Trial Rule 77 package 120, containing 7 items (110 pages), related to 3 witnesses;⁶²
- Trial Rule 77 package 121, containing 2 items (6 pages), related to 2 witnesses;⁶³
- Trial Rule 77 package 122, containing 2 items (10 pages), including 1 item related to 1 witness;⁶⁴
- Trial Rule 77 package 123, containing 2 items (26 pages), related to 5 witnesses;⁶⁵
- Trial Rule 77 package 124, containing 8 items (167 pages), including 7 items related to 3 witnesses;⁶⁶
- Trial Rule 77 package 125, containing 1 item (21 pages), related to 1 witness;⁶⁷
- Trial Rule 77 package 126, containing 5 items (41 pages), related to 4 witnesses;⁶⁸
- Trial Rule 77 package 127, containing 4 items (19 pages), related to 4 witnesses;⁶⁹
- Trial Rule 77 package 128, containing 3 items (24 pages), related to 3 witnesses;⁷⁰

⁵⁷ DAR-OTP-P-0131 and DAR-OTP-P-1021.

⁵⁸ DAR-OTP-P-0129, DAR-OTP-P-0905, DAR-OTP-P-0907, DAR-OTP-P-0987 and DAR-OTP-P-1018.

⁵⁹ DAR-OTP-P-0874, DAR-OTP-P-0879, DAR-OTP-P-0927 and DAR-OTP-P-1021.

⁶⁰ DAR-OTP-P-0879, DAR-OTP-P-0905 and DAR-OTP-P-0935.

⁶¹ DAR-OTP-P-0994.

⁶² DAR-OTP-P-0879, DAR-OTP-P-0921 and DAR-OTP-P-0935.

⁶³ DAR-OTP-P-0007 and DAR-OTP-P-0921.

⁶⁴ DAR-OTP-P-0935.

⁶⁵ DAR-OTP-P-0011, DAR-OTP-P-0671, DAR-OTP-P-0675, DAR-OTP-P-0717 and DAR-OTP-P-0882.

⁶⁶ DAR-OTP-P-0607, DAR-OTP-P-0757 and DAR-OTP-P-0926.

⁶⁷ DAR-OTP-P-0907.

⁶⁸ DAR-OTP-P-0010, DAR-OTP-P-0015, DAR-OTP-P-0617 and DAR-OTP-P-0987.

⁶⁹ DAR-OTP-P-0040, DAR-OTP-P-0044, DAR-OTP-P-0585 and DAR-OTP-P-0671.

⁷⁰ DAR-OTP-P-0015, DAR-OTP-P-0584 and DAR-OTP-P-0907.

- Trial Rule 77 package 129, containing 2 items (21 pages), related to 2 witnesses;⁷¹
- Trial Rule 77 package 130, containing 2 items (8 pages), related to 2 witnesses;⁷²
- Trial Rule 77 package 131, containing 1 item (12 pages), related to 1 witness;⁷³
- Trial Rule 77 package 132, containing 1 item (4 pages), related to 1 witness;⁷⁴
- Trial Rule 77 package 133, containing 3 items (64 pages), related to 3 witnesses;⁷⁵
- Trial Rule 77 package 134, containing 1 item (3 pages), related to 1 witness;⁷⁶
- Trial Rule 77 package 135, containing 12 items (64 pages), including 3 items related to 1 witness;⁷⁷
- Trial Rule 77 package 136, containing 1 item (2 pages), related to 1 witness;⁷⁸
- Trial Rule 77 package 137, containing 12 items (12 pages);
- Trial Rule 77 package 138, containing 16 items (16 pages);
- Trial Rule 77 package 139, containing 1 item (1 page), related to 1 witness;⁷⁹
- Trial Rule 77 package 140, containing 12 items (26 pages);
- Trial Rule 77 package 141, containing 10 items (20 pages);
- Trial Rule 77 package 142, containing 8 items (20 pages);
- Trial Rule 77 package 143, containing 1 item (3 pages), related to 1 witness;⁸⁰

⁷¹ DAR-OTP-P-0697 and DAR-OTP-P-0769.

⁷² DAR-OTP-P-0085 and DAR-OTP-P-0671.

⁷³ DAR-OTP-P-0585.

⁷⁴ DAR-OTP-P-0697.

⁷⁵ DAR-OTP-P-0697, DAR-OTP-P-0926 and DAR-OTP-P-1073.

⁷⁶ DAR-OTP-P-1074.

⁷⁷ DAR-OTP-P-0617.

⁷⁸ DAR-OTP-P-0868.

⁷⁹ DAR-OTP-P-0987.

⁸⁰ DAR-OTP-P-0085.

- Trial Rule 77 package 144, containing 9 items (70 pages), related to 7 witnesses;⁸¹
 - Trial Rule 77 package 145, containing 2 items (4 pages), related to 2 witnesses;⁸²
 - Trial Rule 77 package 146, containing 3 items (10 pages), including 2 items related to 2 witnesses;⁸³
 - Trial Rule 77 package 147, containing 9 items (27 pages), including 5 items related to 2 witnesses;⁸⁴
 - Trial Rule 77 package 148, containing 33 items (638 pages), related to 6 witnesses;⁸⁵
 - Trial Rule 77 package 149, containing 2 items (2 pages), related to 1 witness;⁸⁶
 - Trial Rule 77 package 150, containing 2 items (10 pages), related to 1 witness;⁸⁷
 - Trial Rule 77 package 151, containing 33 items (102 pages), including 1 item related to 1 witness;⁸⁸ and
 - Trial Rule 77 package 152, containing 5 items (10 pages).
4. During the same period, the Prosecution re-issued certain metadata fields and re-disclosed certain images, including items inadvertently disclosed.⁸⁹
5. Furthermore, the Prosecution also reclassified 1 item (3 pages), related to 1 witness,⁹⁰ from Rule 77 to INCRIM.

⁸¹ DAR-OTP-P-0012, DAR-OTP-P-0885, DAR-OTP-P-0892, DAR-OTP-P-0919, DAR-OTP-P-0931, DAR-OTP-P-0932 and DAR-OTP-P-0984.

⁸² DAR-OTP-P-0060 and DAR-OTP-P-0885.

⁸³ DAR-OTP-P-0020 and DAR-OTP-P-1061.

⁸⁴ DAR-OTP-P-0921 and DAR-OTP-P-1062.

⁸⁵ DAR-OTP-P-0129, DAR-OTP-P-0878, DAR-OTP-P-0918, DAR-OTP-P-0921, DAR-OTP-P-0994 and DAR-OTP-P-1086.

⁸⁶ DAR-OTP-P-1062.

⁸⁷ DAR-OTP-P-0131.

⁸⁸ DAR-OTP-P-1062.

⁸⁹ Trial Image Update package 05, containing 1 item (1 page), and Trial Image Update package 06, containing 2 items (204 pages).

⁹⁰ DAR-OTP-P-0012.

6. With respect to redactions, the Prosecution applied “standard” redactions to new items pursuant to the procedure for exceptions to disclosure adopted by the Single Judge of Pre-Trial Chamber II on 17 August 2020.⁹¹



Karim A. A. Khan KC
Prosecutor

Dated this 22nd day of February 2023,
At The Hague, The Netherlands

⁹¹ Order on disclosure and related matters, 17 August 2020, ICC-02/05-01/20-116, paras. 12-13.