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**International
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Date: **03 July 2026**

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 1**

Defence Consolidated Response on Reparations

Source: Defence for Mr Ali Muhammad Ali Abd-Al-Rahman

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Section

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Trust Fund for Victims

I - INTRODUCTION

1. As instructed by Honourable Trial Chamber I (“Trial Chamber”),¹ the Defence for Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Defence”) submits this response to the Observations on Reparations filed by the General Coordination Committee of the IDPs and Refugee Camps in Sudan, the Wayamo Foundation and others (“*Amicus 1 Observations*”),² the Office of the Prosecutor (“OTP Observations”),³ the Registry (“Registry Observations”),⁴ the Distinguished Legal Representative for Victims (“LRV Observations”),⁵ Global Legal Action Network and others (“*Amicus 2 Observations*”),⁶ and Redress and others (“*Amicus 3 Observations*”),⁷ (together “Observations”). The Defence submits one consolidated response to all the Observations (“Response”). The Response also relies on the Registry Victim Mapping Report,⁸ follows up on the Defence Observations on Reparations⁹ and refers to the Defence’s earlier “*Requête et Observations sur les Réparations*” (“Defence *Requête*”).¹⁰ All these submissions should be considered together.

2. For the sake of conciseness, the Defence does not address each and every aspect contained in the various Observations. It focuses primarily on the LRV Observations, as completed by others. The Defence addresses the various Observations by topic, following the structure suggested by the Trial Chamber¹¹ (I), prior to proposing solutions for prompt, efficient, straightforward and meaningful reparations for victims, following a multi-phased approach (II). Residual issues will be addressed during the forthcoming hearing on reparations.

3. As instructed by the Trial Chamber,¹² every submission contained in the Defence Observations and in the present Response are made subject to information in Submission ICC-02/05-01/20-1328 and its annexes that have not, as yet, been disclosed to the Defence (“Undisclosed Information”).¹³ After having sought the instructions of Mr Abd-Al-Rahman, and in the interest of victims, the Defence submits its Response, with the caveat that its submissions may later be varied upon reception of the Undisclosed Information.

¹ [Order for Submissions on Reparations](#), para. 7.

² ICC-02/05-01/20-1326 ([Amicus 1 Observations](#)).

³ ICC-02/05-01/20-1342 ([OTP Observations](#)).

⁴ ICC-02/05-01/20-1343-Red ([Registry Observations](#)).

⁵ ICC-02/05-01/20-1344-Red ([LRV Observations](#)).

⁶ ICC-02/05-01/20-1345-Red ([Amicus 2 Observations](#)).

⁷ ICC-02/05-01/20-1346-Red ([Amicus 3 Observations](#)).

⁸ ICC-02/05-01/20-1256-Conf-Corr ([Mapping Report](#)).

⁹ ICC-02/05-01/20-1338-Red ([Defence Observations](#)).

¹⁰ ICC-02/05-01/20-98 ([Defence Requête](#)).

¹¹ [Order for Submissions on Reparations](#), para. 6(a).

¹² Email from the Trial Chamber to the Defence, 2 July 2026, 15.24.

¹³ ICC-02/05-01/20-1328-Conf-Red and its annexes.

4. Nothing in the present Response or in the Defence Observations should be construed as an admission of any guilt or responsibility on behalf of Mr Abd-Al-Rahman, nor impact on its submissions in Appeals A and A2 currently pending before the Appeals Chamber. In particular, the relevant victimisation and harm considered therein are strictly based on the factual findings of the Trial Chamber in the Trial Judgment, notwithstanding their challenge on appeal.

5. The Response is public. Pursuant to Regulation 23*bis*(1) of the Regulations of the Court (“RoC”), Annex 1 is classified confidential as it refers to information under the same classification. A public redacted version of Annex 1 will be submitted in due course.

II – RESPONSE TO ISSUES LISTED BY THE TRIAL CHAMBER

6. The Defence addresses the topics listed by the Trial Chamber in the same order.

(i) Estimated Number of Eligible Direct and Indirect Victims

7. The various Observations provide the Chamber with essentially two figures regarding the number of victims: a narrow one, limited to the 1,592 victims represented by the LRV,¹⁴ and an extensive one advanced by the Registry in its Mapping Report.¹⁵ Some *Amici* support the latter figure;¹⁶ others do not take a position.

8. Some figures provided in the Mapping Report and the Registry Observations go far beyond the factual findings of the Trial Judgment, in particular with respect to the alleged victimisation of the entire Fur population as a result of the killing of some of its local leaders,¹⁷ or of all those who witnessed crimes in Mukjar and Deleig,¹⁸ or of the entire Fur community.¹⁹ For the following reasons, these extensive figures should be rejected.

9. In the Trial Judgment, the Trial Chamber found that some Fur leaders were killed: their list is provided in footnotes 157-158 and 163-164 of the Mapping Report.²⁰ Other Fur community leaders, including those mentioned at paragraphs 276 and 614 of the Trial Judgment,²¹ primarily the Fur *Shartay* Omar Ahmad Zarruq, were not targeted and remained in place. Suggesting that the entire body of Fur community leaders disappeared as a result of the charged events is thus an exaggeration. The Fur tribe was and remains a powerful and well-structured one with its own *dar*. The LRV Observations largely confirm as much.²² The Defence does not dispute that the

¹⁴ [LRV Observations](#), para. 39. See also [OTP Observations](#), para. 8.

¹⁵ [Mapping Report](#), paras. 110-139.

¹⁶ [Amicus 1 Observations](#), paras. 13-15.

¹⁷ [Mapping Report](#), paras. 132(ii), 135, 137(iii), 139; [Registry Observations](#), paras. 145(v), 146(vi), 165 (4th bullet point); see also [OTP Observations](#), para. 30(b); [Amicus 3 Observations](#), para. 10.

¹⁸ [Registry Observations](#), paras. 145(iv), 146(v); see also [Amicus 3 Observations](#), para. 10.

¹⁹ [Registry Observations](#), paras. 152-157.

²⁰ [Mapping Report](#), paras. 135, footnotes 157-158; 130, footnotes 163-164.

²¹ [Trial Judgment](#), paras. 276, 614.

²² [LRV Observations](#), paras. 75, 80-82.

tribe was impacted by the charged events, but suggesting that every member of the Fur tribe can be considered a victim, even an indirect one, simply as a result of the disappearance of its community leaders, is an overstatement. It is not supported by the findings of the Trial Judgment.

10. Further, not all witnesses of crimes in Mukjar and Deleig can be considered victims. *Janjaweed* witnessed crimes; the Defence doubts that the Registry is suggesting that they should be considered victims. Other unaffected residents, including from the Fur community, also witnessed crimes; they are not victims either, unless they suffered some specific harm individually. The category of individuals who “*witnessed crimes*” proposed by the Registry as eligible victims goes far beyond the definition of Rule 85 of the Rules of Procedure and Evidence (“RPE”) and should be rejected.

11. Finally, “*the entire Fur community*” should not be considered eligible victim, as proposed by the Registry.²³ This proposal is irreconcilable with the definition of “victims” under Rule 85 of the RPE, is not supported by the Trial Judgment and conflates two different things, namely, on the one hand, public recognition by the Court that the Fur community was targeted by the 2003-2004 counter-insurgency launched by the Government of Sudan (“GoS”), and, on the other hand, “*the recognition of the Fur community itself as a victim in the case*” proposed by the Registry. The latter has no legal or factual basis. Under Rule 85 of the RPE, “victims” means (a) “*natural persons who have suffered harm*” or (b) “*organizations or institutions that have sustained direct harm*”. The Fur community as a whole falls within neither of these two categories and thus cannot be recognized as a victim. The Trial Judgment also clearly shows that “*the entire Fur community*” was not targeted by the crimes. The attacks on Kodoom and Bindisi were launched on these two localities without distinction, meaning that all residents of these two localities who have suffered harm could be considered victims. But in Mukjar and Deleig, the operations were specifically targeting members of the Fur community suspected of being rebels or supporting the rebellion;²⁴ other Fur, who were not suspected, were not targeted²⁵ and some were even incorporated within the Popular Police Force²⁶ and Popular Defence Force,²⁷ i.e. they were integrated into the groups that composed the so-called *Janjaweed*.²⁸ The Registry’s suggestion that “*the entire Fur community*” is a victim is thus not supported by the findings of

²³ [Registry Observations](#), paras. 152-157. See also [Amicus 3 Observations](#), para. 8.

²⁴ [Trial Judgment](#), paras. 484 (“*searched for weapons or physical signs that they had carried weapons*”), 486 (“*lists of persons suspected of being rebels*”), 492 (“*accused of being rebels*”), 580 (“*suspected of being connected with the insurgency*”), 581 (“*the government considered them to be rebels*”), 593 (“*suspected of being, or supporting, rebels*”), 596 (“*questioned about where they came from, their affiliation with rebels*”).

²⁵ [Trial Judgment](#), paras. 484, 491, 494, 600, 601, 613-616.

²⁶ [Trial Judgment](#), paras. 464, 486, 594.

²⁷ [Trial Judgment](#), para. 486.

²⁸ [Trial Judgment](#), para. 333.

the Trial Judgment. In any case, the Trial Judgment has already clearly established that the Fur community was targeted by the 2003-2004 counter-insurgency launched by the GoS.²⁹ This finding is not challenged on appeal and is thus final. The official “*recognition*” of the fact that the Fur were targeted has thus already been provided in the Trial Judgment, without a need to repeat or confirm it in the reparations order, which is about something else. Including “*the entire Fur community*” in the category of victims eligible for reparations would further create an undue burden on reparations efforts, which would be detrimental to the actual victims with direct or indirect harm.

12. Notwithstanding these three caveats, the Defence submits that both the restricted figures advanced by the LRV and the extended figures proposed by the Registry as equally valid. The Defence is also submits that these do not contradict each other, but that the difference between the two is more a matter of perspective and ambition for reparations. The Defence submits that the reparations should benefit, at a minimum, the 1,592 victims referred to by the LRV and may, if feasible, be extended to include the other categories of potentially eligible victims referred to by the Registry. The difference between these two figures forms one of the bases for the multi-phased approach proposed by the Defence below.

(ii) Identification of Eligible Victims

13. The Defence refers to paragraphs 7 to 12 of its Observations on this topic.³⁰ The Defence notes that the LRV concurs with paragraphs 10-12 of its Observations with respect to the necessary oversight that the Trial Chamber should exercise on the implementation of the Reparations Order.³¹ The Defence and LRV Observations both strongly argue in favour of continuous judicial oversight of the implementation phase of reparations, in contrast to the approaches taken in the *Ongwen*³² and *Al Hassan*³³ cases, and in compliance with the Appeals Chamber *Ntaganda* ruling.³⁴

14. The option of empowering the Trust Fund for Victims (“TFV”) with the implementation of the Reparations Order with no judicial oversight by the Trial Chamber, as proposed in *Amicus 3* Observations,³⁵ should not be followed. This approach is, firstly, not compliant with the Appeals Chamber’s case law on the matter.³⁶ It is also likely to cause significant delays in the

²⁹ [Trial Judgment](#), para. 287.

³⁰ [Defence Observations](#), paras. 7-12.

³¹ [LRV Observations](#), paras. 7, 13, 269-271.

³² *Ongwen*, [Reparations Order](#), paras 810-813.

³³ *Al Hassan*, [Reparations Order](#), para. 257.

³⁴ *Ntaganda*, [Judgment on the Appeals against the ‘Reparations Order’](#), para. 387.

³⁵ *Amicus 3* Observations, paras. 12-13, 48-49.

³⁶ *Ntaganda*, [Judgment on the Appeals against the ‘Reparations Order’](#), para. 387.

implementation of the reparation order. Experience has shown that, in the absence of judicial oversight, the TFV was insufficiently proactive in taking steps in view of reparations for victims in Darfur. In this regard, the Defence fully shares the LRV's concerns expressed at paragraphs 14-15 and 62-84 of her Observations with respect to the timing of reparations in other cases.³⁷ In the present case, the Defence's concerns are even greater. The TFV started being staffed in 2007,³⁸ the same year as the issuance of the first warrant of arrest in the case. From that year, the essence of the charged crimes, targeted localities and affected communities were publicly known. In June 2020, Mr Abd-Al-Rahman surrendered to the Court. A second warrant of arrest against him was made public, amending the 2007 charges. In July 2021, the charges against him were confirmed by Pre-Trial Chamber II; they have not varied since. The Trial Judgment convicting Mr Abd-Al-Rahman was issued on 6 October 2025. On 4 November 2025, the TFV informed the Defence that it was not providing assistance to Darfur victims and that it would only engage into raising funds for them after the issuance of a Reparations Order.³⁹ At the time of submitting this Response, and despite reminders sent on 6 December 2025,⁴⁰ 2 February 2026,⁴¹ and a letter escalating the matter to the TFV Board of Directors on 12 February 2026,⁴² the Defence has still no confirmation that the TFV has followed up with the State interested in making an earmarked contribution to the TFV in favour of Darfur victims in response to the Defence's call for contributions of November 2025.

15. Blaming the TFV for its inaction would be too easy and is serving no real purpose. Under the current prevailing belief that no reparations for victims are possible before this Court until an Accused is convicted, the TFV had no guarantee that anything would happen until issuance of the Trial Judgment. Also, the Judgment is on appeal. Its reversal is possible and the spectrum of the sudden stop put on reparations in the *Bemba* case is haunting everyone's mind.⁴³ The TFV can thus hardly be blamed for not raising earmarked funds that it may have to return in case of final acquittal. The situation will be totally different once the Trial Chamber adopts the first Principle of Reparations proposed by the Defence.⁴⁴ That will allow the TFV to start fundraising for reparations in a case from the very start of the proceedings, without fear of a later acquittal.

³⁷ [LRV Observations](#), paras. 14-15, 62-84. See also [OTP Observations](#), para. 33.

³⁸ [TFV webpage: About us](#).

³⁹ [Defence Observations](#), paras. 25-26.

⁴⁰ Email from the Defence to the TFV Executive Director, 6 December 2025, 10.04.

⁴¹ Email from the Defence to the TFV Executive Director, 2 February 2026, 09.45.

⁴² Confidential Annex 1: Letter to the TFV Board of Directors, 12 February 2026.

⁴³ *Bemba*, [Final Decision on Reparations Proceedings](#).

⁴⁴ [Defence Observations](#), paras. 119-136.

16. But the TFV's inaction in favour of Darfur victims since 6 October 2025, including when prompted, with insistence, by the Defence, is a clear indication that nothing should be expected from it in the absence of robust oversight by the Trial Chamber. *Amicus 3*'s proposal to empower the TFV with reparations was likely made without knowledge of this regrettable reality. In compliance with the Appeals Chamber's *Ntaganda* ruling, the Trial Chamber's close and active monitoring of the TFV's activities in the implementation of the future reparation order is an absolute necessity for these to materialize in a meaningful way.

17. The significant delays in the implementation of reparation orders in the other cases referred to by the LRV⁴⁵ and her quote of Honourable Judge Ibáñez Carranza's opinion in the *Ntaganda* Case⁴⁶ have greatly inspired the multi-phased approach to reparations proposed below.

18. In light of the specific circumstances of this case, the Defence strongly supports the LRV Observations on the need for a speedy verification process with respect to victims who are not yet represented by the LRV, including with respect to the lack of identification documents.⁴⁷ This issue is directly related to the applicable standard of proof for reparations. The Defence has noted the consensus in favour of the balance of probabilities standard⁴⁸ and would certainly have added its voice to that consensus if Mr Abd-Al-Rahman had any financial or other means to contribute to the reparations directly. But that is not the case. Mr Abd-Al-Rahman has no means and has no reasonable expectation of gaining access to any significant means in the foreseeable future. In such circumstances, reparations will have to be supported by the TFV, on the basis of voluntary contributions, in addition to the additional funds that the Second Additional Principle proposed by the Defence may provide.⁴⁹ In that context, the Defence sees no reason to maintain the balance of probabilities standard of proof for reparations and invites the Trial Chamber to explore the application of the *prima facie* standard of proof already in force for the eligibility of victims to participation. This is also consistent with his position in favour of reparations for victims throughout the proceedings. The proposal to apply the *prima facie* standard of proof is made subject to the content of the Undisclosed Information and may be revisited after their disclosure to the Defence.

⁴⁵ [LRV Observations](#), paras. 14-15, 62-84.

⁴⁶ [ICC-01/04-02/06-2908-OPI A A6 A7](#), para. 81, quoted at paragraph 11 of the [LRV Observations](#).

⁴⁷ [LRV Observations](#), paras. 70-84.

⁴⁸ [Amicus 1 Observations](#), para. 49; [OTP Observations](#), para. 12; [Registry Observations](#), para. 158.

⁴⁹ [Defence Observations](#), paras. 137-151, in particular paras. 148-149 on the seizure of properties and assets frozen under Security Council Resolution 1591.

(iii) Prioritisation

19. The Defence is in agreement with the various prioritisations proposed by the LRV.⁵⁰ The Defence notes in particular the views expressed by some participating victims that their group should be prioritized.⁵¹ Although this view is not a consensus,⁵² the Defence has taken it into account in its framing of the proposed multi-phased approach to reparations. As an absolute minimum – described as “the first phase” – the 1,592 victims participating in the proceedings should receive reparations. This can be complemented with wider reparations measures – “second phase” and so on – if feasible and without delaying the implementation of the first phase, which should be considered as an absolute priority.

20. The Defence is fully aware that reparations can only be plainly satisfactory if they benefit all victims who suffered harm as a result of the charged crimes, which are closer to those identified in the Registry Mapping, subject to the Defence caveats under (i) above. But the Defence is also aware that offering prompt reparations to the more restricted group of 1,592 participating victims is preferable to delaying the whole process of reparations for years, as described by the LRV in the other cases before the Court. Though not totally satisfactory, the proposed multi-phased approach aims at offering pragmatic and realistic solutions.

21. The Defence has also carefully considered the Registry’s Observations on the risk of tensions that any prioritisation may create.⁵³ The Defence admits that it has no solution to propose for such a risk, other than a maximum effort of transparency, pedagogy and celerity on behalf of all stakeholders, including the Trial Chamber, the LRV, the TFV, the OTP and the Registry, especially its Outreach services. “*Transparent eligibility criteria*”, “*meaningful community involvement*”, “*adequate explanation*”, “*awareness-raising within local communities*” are also, with “*confidential distribution mechanisms*”, the measures recommended by the Registry to alleviate tensions.⁵⁴ The Defence reiterates its readiness to contribute to these, whenever necessary. In any case, the risk of creating tensions should not result in delaying or diminishing reparations measures. Prompt and meaningful reparations should remain the utmost priority.

(iv) Types and Extent of the Harm

22. The Defence takes note of the LRV Observations on this topic.⁵⁵

⁵⁰ [LRV Observations](#), paras. 247-258.

⁵¹ [LRV Observations](#), paras. 250-251.

⁵² [LRV Observations](#), para. 252.

⁵³ [Registry Observations](#), paras. 65-66, 182.

⁵⁴ [Registry Observations](#), para. 66.

⁵⁵ [LRV Observations](#), paras. 40-61.

23. With respect to the “but/for” test advanced by the LRV,⁵⁶ the Defence submits that it is both safer and more favourable to the victims to apply it to the charged crimes committed under the authority of the GoS by the *Janjaweed* and other military/paramilitary forces than with reference only to the crimes for which Mr Abd-Al-Rahman has been convicted in the Trial Judgment. Framing the “but/for” test in such a way will indeed preserve the victims from any impact that a potential acquittal, partial or complete, may have on reparations, in line with the First Additional Principle proposed by the Defence.⁵⁷

24. The Defence agrees with the community harm proposed by the LRV with respect to Kodoom and Bindisi.⁵⁸ With respect to Mukjar and Deleig, however, the Defence repeats the same concerns as mentioned at (i) above. The killing of some community leaders in Mukjar and Deleig certainly had an impact on the Fur community as a whole and is a relevant factor in the consideration of any potential community-based reparations measures. As explained below in the multi-phased approach proposed by the Defence, such collective measures benefiting the community as a whole should not be given priority. If feasible, these may come only as a complement to individual reparation measures, as part of a subsidiary phase of reparations measures. In any case, the Defence submits that such community-based reparations measures are better adapted to victims in Kodoom and Bindisi, than those in Mukjar and Deleig, as the impact on the latter localities was significantly lower than on the first two, which were, according to the Trial Judgment, simply destroyed. The community in Mukjar and Deleig witnessed traumatic events; some of its members individually suffered direct or indirect harm as a result thereof; but submitting that the community as a whole suffered harm thereby giving right to reparations is, in the respectful view of the Defence, not accurate and is placing an undue burden of reparations efforts that may be detrimental for actual victims with direct or indirect harm.

(v) Use of Factual Presumptions

25. The Defence agrees that the use of presumptions provides an appropriate mean of simplifying the reparations process, and of alleviating the burden of proof bearing on victims. The use of presumptions should be considered in connection with the relaxed standard of proof proposed by the Defence under (ii) above. The Defence’s position on presumptions is advanced subject to the same caveat in relation to the content of the Undisclosed Information.

⁵⁶ [LRV Observations](#), para. 41.

⁵⁷ [Defence Observations](#), paras. 119-136.

⁵⁸ [LRV Observations](#), para. 59.

26. Under the same conditions, the Defence agrees with the factual presumptions proposed by the LRV at paragraphs 243, 245 and 246 of her Observations.⁵⁹ With respect to community harm in Mukjar and Deleig, the Defence refers to its submissions at **(i)** above. Even limited to actual “victims”, rather than the entire community,⁶⁰ the Defence submits that the existence of community harm in Mukjar and Deleig is not supported by the findings made in the Trial Judgment. The Defence has no objection to the recognition of other types of harm – physical, moral, material, as applicable – mentioned at paragraph 244 of the LRV Observations.⁶¹

27. However, the Defence opposes presumptions (i) and (iii) proposed at paragraph 27 of the OTP Observations.⁶² Survivors can report the commission of rape without being victims of rape themselves. The OTP’s suggestion simply makes no sense. Instead, the Defence is not opposed to a presumption that any incidents of sexual intercourse engaged in by the *Janjaweed* that took place in the context of the attacks in Kodoom and Bindisi were non-consensual and amounted to rape. With respect to presumption (iii), the Defence is in agreement with respect to residents of Kodoom and Bindisi, but submits that non-residents from surrounding areas present in Kodoom and Bindisi at the relevant period cannot be presumed to have suffered harm as a result of pillaging and destruction of property. The Defence agrees with the OTP’s presumption (ii) with respect to children born out of rape.

28. For the reasons already stated at **(i)** above, the Defence opposes the presumptions proposed at paragraph 164, 2nd bullet point, and 165, 4th bullet point of the Registry Observations⁶³ and paragraphs 8 and 10 of *Amicus 3* Observations⁶⁴ with respect to victims in Mukjar and Deleig.

29. In addition to the above, the Defence invites the Trial Chamber to consider the two following presumptions.

30. First, a rebuttable presumption that any reparation awarded to victims as a result of the present reparation proceedings does not amount to over-compensation. The proposed presumption relies on the available information and evidence that the victims in the case have to date received no compensation,⁶⁵ including those made under **(ii)** above and information provided in Annex 1. As a result of such a presumption, any submission that reparations to

⁵⁹ [LRV Observations](#), paras. 243, 245, 246.

⁶⁰ [Mapping Report](#), paras. 132(ii), 135, 137(iii), 139; [Registry Observations](#), paras. 145(v), 146(vi), 165 (4th bullet point); see also [OTP Observations](#), para. 30(b); [Amicus 3 Observations](#), para. 10.

⁶¹ [LRV Observations](#), para. 244.

⁶² [OTP Observations](#), para. 27.

⁶³ [Registry Observations](#), para. 164, 2nd bullet point.

⁶⁴ [Amicus 3 Observations](#), paras. 8, 10.

⁶⁵ [Defence Observations](#), paras. 22-26, especially documented referred to in footnotes 27 and 28.

victims may amount to over-compensation⁶⁶ should be dismissed, unless its author proves, on the balance of probabilities, that they have already received reparations for the same harm. The Defence sees no issue with the possibility that some victims may be “*enriched*” as a result of reparations. The grim situation they have faced for years and are still facing is more than enough to make that risk tolerable, if not desirable.

31. Second, the Defence is of the view that the victims and the Court would greatly benefit from the establishment of a schedule providing specific amounts of *pretium doloris* for the various types of harm. The applicable amount of each harm would be presumed to correspond to the amount provided in such a schedule, without need for further proof of its exact amount. The proposed approach addresses and is consistent with the submissions made at paragraph 27 of *Amicus 3 Observations*,⁶⁷ although the Defence does not suggest that the Trial Chamber should draw inspiration from Sudanese *diya*. Rather, the Defence respectfully proposes the appointment of an appropriate expert in the determination of *pretium doloris*, who could assist the Court in preparing a schedule. In order to be usable across various ICC cases, irrespective of the situation country, the schedule should provide basic indicia that could be used, in combination with the country’s applicable GDP,⁶⁸ to determine fair amounts of *pretium doloris* for each type of harm. This approach would ensure consistency, enhance the perception of fairness and create foreseeability among the various Cases and Situations before the Court. That foreseeability would also greatly assist the TFV in performing its mandate. This proposal is further addressed as part of the multi-phased approach to reparations below. Although it goes beyond the limited scope of the present case, this is a direct consequence of the choice made to develop principles of reparations through judicial proceedings pursuant to Article 75(1) of the Statute. The Defence’s proposal is to try this approach in the present case and consider later on whether it is a useful prototype for a standard approach applicable to other cases. Should the Trial Chamber so request, the Defence can assist in making propositions of relevant experts who could assist the Court in the establishment of the proposed schedule.

(vi) Types and Modalities of Reparations

32. The Defence refers to paragraphs 13 to 21 of its Observations on this topic.⁶⁹ With some nuances and more details, the Defence’s Observations are largely mirrored by the relevant

⁶⁶ [LRV Observations](#), para. 260.

⁶⁷ [Amicus 3 Observations](#), para. 27.

⁶⁸ [Amicus 1 Observations](#), paras. 36-37, referring to *Ongwen*, [Reparations Order](#), paras. 626-630.

⁶⁹ [Defence Observations](#), paras. 13-21.

submissions of the LRV,⁷⁰ *Amicus 1*⁷¹ and Registry⁷² on the topic. The Defence has the following comments to make on these various submissions.

33. First, the Defence notes the universal preference given to individual financial compensation for victims.⁷³ Some Observations draw a distinction between what they call “*symbolic monetary awards*” and actual “*financial compensation*”.⁷⁴ For the Defence, the only difference between the two is the amount awarded and whether it is high enough to qualify as actual compensation for the harm suffered. The choice between the two may be imposed on the Court and the TFV by the financial means available for reparations, coming either from voluntary contributions or the measures proposed under the Defence Second Additional Principle.⁷⁵ The Defence has made proposals aimed at optimizing the chances of raising sufficient funds for reparations.⁷⁶ The Defence addresses this aspect further at (vii) and in its proposed multi-phased approach to reparations.

34. Second, the Defence shares the widespread concerns expressed with respect to the length of the reparations proceedings, the substantial additional time that the victims may still have to wait prior to receiving reparations, and the absolute priority given to promptly implementable reparation measures incurring no further delay.⁷⁷ At the same time, the level of complexity of some of the reparations measures proposed and the fact that they call for specific skills and means that the Court, including the TFV, is lacking and/or fall beyond its mandate,⁷⁸ mean that their adoption is likely to protract the concrete implementation of reparations further. The Defence also notes with interest the distinction that is often made between reparations awarded by the

⁷⁰ [LRV Observations](#), paras. 109-127 (financial compensation), 128-226 (rehabilitation), 227-235 (restitution).

⁷¹ [Amicus 1 Observations](#), paras. 31-37 (financial compensation), 38-40 (restitution), 41-48 (rehabilitation), 50 (satisfaction).

⁷² [Registry Observations](#), paras. 22-46 (restitution), 47-70 (financial compensation), 71-121 (rehabilitation), 122-139 (satisfaction).

⁷³ [LRV Observations](#), paras. 20, 109-127; [Amicus 1 Observations](#), paras. 31-37; [OTP Observations](#), para. 33; [Registry Observations](#), paras. 47-70, 183 (“*financial compensation is of top priority to help families*”); [Amicus 2 Observations](#), para. 40 (“*Immediate individual cash transfers should be disbursed as a first modality*”); [Amicus 3 Observations](#), paras. 26-29, 42 (“*All Participating Victims called for individual monetary compensation more than any other reparation measure*”; “*the most meaningful socio-economic support measure would likely be direct cash assistance*”).

⁷⁴ [Amicus 1 Observations](#), paras. 31-37; [OTP Observations](#), para. 33; [Amicus 3 Observations](#), para. 28.

⁷⁵ [Defence Observations](#), paras. 137-151, in particular paras. 148-149 on the seizure of properties and assets frozen under Security Council Resolution 1591.

⁷⁶ [Defence Requête](#), para. 100: “*Principe Additionnel de la Réparation No. 4 – Récolte des Fonds en vue du Financement des Réparations*”.

⁷⁷ [LRV Observations](#), paras. 14-15, 62-84; [Amicus 1 Observations](#), para. 51; [OTP Observations](#), paras. 31-33; [Registry Observations](#), paras. 178-180; [Amicus 2 Observations](#), para. 40.

⁷⁸ These include some of the measures contemplated in: [LRV Observations](#), paras. 128-226 ; [Amicus 1 Observations](#), paras. 41-48; [Registry Observations](#), paras. 107-121; [Amicus 2 Observations](#), paras. 25-30, 36, 38; [Amicus 3 Observations](#), paras. 31-35, 43-44.

Court and humanitarian assistance⁷⁹ and largely agrees with this. The Defence has factored these aspects into the conceptualisation of its multi-phased approach to reparations, prioritizing measures implementable without delay, while keeping more complex measures for additional rounds of reparations.

35. Third, the Defence disagrees with the suggestion made by the Registry that the families of deceased community leaders should receive higher compensation.⁸⁰ There can be no justification for making such a distinction, which is incompatible with the prohibition of adverse distinction based on, *inter alia*, “social origin, wealth, birth or other status” under Article 21(3) of the Statute.

36. Finally, the Defence has noted the Registry’s submissions on satisfaction placing emphasis on the impact of the issuance of the Trial Judgment, the recognition of the crimes and of the suffering of victims and the acknowledgement of all those responsible, including the GoS contained therein.⁸¹ The views and opinions of victims reported by the Registry should encourage the Trial Chamber in adopting the Defence’s Second Additional Principle of Reparations proposed in its Observations in relation to the responsibility of Sudan.

(vii) Estimated Costs

37. This aspect is nowhere addressed in the Observations, except by questioning the feasibility and sustainability of the current reparations scheme.⁸² The LRV goes as far as calling for “*an internal review and ultimately reforms of the legal framework*”, without substantiating these. While aware of the need for realism, the Defence respectfully disagrees with the need to amend the Statute’s provisions on reparations. The Defence submits that most of the actual problems described by the LRV do not come from a defect in the Court’s legal texts, but from their lack of proper implementation to date. As a first example, after 24 years of existence, the absence of a standard schedule detailing the *pretium doloris* for the various types of harm suffered is a good example of the existing room for progress in the implementation of the Court’s reparation scheme. The fact that the TFV is yet to start raising funds for Darfur victims and is awaiting the issuance of a reparation order by the Court to start doing so is another example that speaks volumes about the progress ahead in view of a proper and effective implementation of the Court’s reparations mandate. Although States and other public and private contributors may always be more forthcoming in donating to the TFV to finance reparations, these would likely

⁷⁹ [Registry Observations](#), paras. 185-186; [Amicus 2 Observations](#), para. 39.

⁸⁰ [Registry Observations](#), paras. 57-58.

⁸¹ [Registry Observations](#), para. 131.

⁸² [LRV Observations](#), paras. 6-13; [Amicus 1 Observations](#), para. 32; [Registry Observations](#), para. 59; [Amicus 3 Observations](#), para. 28.

be more motivated if they knew to what and for whom they are donating: without a set scale of *pretium doloris*, the Court itself is not capable of evaluating the cost of the reparations, as demonstrated by the silence in the Observations on this specific subject; informing States that they can and are asked to donate for reparations for victims in Darfur, DRC, Uganda, Mali, Ukraine or any other specific Situation country of their preference would give them a clearer picture and provide greater motivation, than donating for anonymous, unspecified victims in general. Rather than considering an amendment to its texts, the Defence submits that the Court and the TFCV should start by actively implementing these.

38. In its July 2020 *Requête* before the Pre-Trial Chamber, the Defence addressed the issue of the funding of reparations. In the absence of an official English version, the Defence provides here a translation of its main propositions on this issue, as adapted to the present phase of the proceedings: *“the Trust Fund for Victims should immediately proceed with the call for voluntary contributions provided for in Rule 23 of its Regulations. This call should be clearly identified as seeking voluntary contributions earmarked for reparations for the benefit of the victims of the [Case] in connection with which the requests for reparations have been received, in accordance with Rules 27(a) and (b) of the Regulations of the Trust Fund for Victims. The call may mention the number of requests for reparations received by the Court and the approximate total amount of the reparations sought therein. The call should be renewed as many times as necessary with updated information on new requests received and the new amount of reparations sought since the previous call. The Court, including the Office of the Prosecutor, should make use of its information and public relations services in order to support the Trust Fund for Victims in its efforts to secure voluntary contributions. The Trust Fund for Victims should regularly inform the [Chamber] of the voluntary contributions received in connection with the [Case], as well as of the additional amount that the Fund itself is prepared to devote to reparations in that [Case] for the current reparations phase.”*⁸³

39. The Defence does not suggest that the above proposal will inevitably allow the TFCV to raise sufficient funds for reparations to all eligible victims in the case. But this proposal has at least the advantage of confronting the States Parties with the responsibilities they undertook in 1998 by mandating the ICC to provide reparations to victims: if the States and other potential donors want these reparations to become a reality in the present case, the proposed procedure aims at mobilising their contributions for as long as necessary for the level of funds raised to be

⁸³ [Defence Requête](#), para. 100 : “*Principe Additionnel de la Réparation No. 4 – Récolte des Fonds en vue du Financement des Réparations*”.

enough. If the States fail to donate for the benefit of the victims in the case, the Court and the TFV will at least have done everything in their powers to satisfy their mandate.

40. In addition to voluntary contributions, the Second Additional Principle proposed by the Defence also aims at securing additional funds for the purpose of reparations.⁸⁴ Once again, the Defence does not suggest that these will necessarily succeed, but they constitute yet another possible avenue for the Court and the TFV to secure funds to finance reparations for Darfur victims. In her Observations, the LRV calls for “*judicial creativity and ongoing oversight*”.⁸⁵ This is what the Defence attempts to offer by the present submissions.

(viii) Compensation Already Received by the Victims

41. The Defence refers to paragraphs 22 to 26 of its Observations on this topic.⁸⁶ The Defence notes that the factual Observations of the LRV and of the Registry⁸⁷ confirm these.

(ix) Assessment of Mr Abd-Al-Rahman’s Liability

42. The Defence refers to paragraphs 27 to 31 of its Observations on this topic.⁸⁸ This aspect is nowhere addressed in the Observations. The Defence thus has no response to make.

(x) Any other Issue Relevant to Reparations

43. The Defence refers to paragraphs 32 to 151 of its Observations on this topic.⁸⁹ All submissions made in the Defence Observations are comforted by the various Observations made by the Parties, Participants and Registry, with the sole exception of the OTP Observations addressed below. The Defence thus maintains these and submits, in addition, the following that is inspired by the Observations made by the Parties, Participants and Registry.

44. At paragraphs 4 and 5 of its Observations, the OTP submits that the Chamber should reject the principles proposed by the Defence on the ground that these have already been litigated in this case and that the Appeals Chamber, in its OA4 Ruling, found that reparations can only be made directly against the convicted person.⁹⁰ The OTP does not engage further with the Defence’s demonstration of a Customary International Law rule according to which victims have a right to reparations that is not conditional on identification, prosecution, conviction or capacity of the offenders to support these.⁹¹ The OTP also does not engage with the Defence’s reliance on the precise wording of Council Resolutions 1591 and 1593 with respect to the responsibility of

⁸⁴ [Defence Observations](#), paras. 137-151, in particular paras. 148-149 on the seizure of properties and assets frozen under Security Council Resolution 1591.

⁸⁵ [LRV Observations](#), para. 7.

⁸⁶ [Defence Observations](#), paras. 22-26.

⁸⁷ [LRV Observations](#), paras. 259, 261 ; [Registry Observations](#), paras. 185-186.

⁸⁸ [Defence Observations](#), paras. 27-31.

⁸⁹ [Defence Observations](#), paras. 7-12.

⁹⁰ [OTP Observations](#), paras. 4-5.

⁹¹ [Defence Observations](#), paras. 32-136.

the Government of Sudan regarding reparations.⁹² The OTP's objection was already addressed at paragraph 130 of the Defence Observations: the Appeals Chamber's OA4 ruling was essentially on a different issue, namely whether a reparation phase may take place at the pre-trial stage without a need to wait for a trial judgment, not about whether a reparation order could only be issued against a convicted person. Had the Appeals Chamber had to rule on whether a reparation order could only be issued against a convicted person, the Defence would have argued that the Court's texts governing the matter, in particular Rule 98(4)-(5) of the RPE clearly provide for reparations through the TFV. The scope of the Appeals Chamber's OA4 Ruling is limited to affirming that "*the final decision on the scope of damage and the determination of the modalities for reparations take place after the trial has concluded*".⁹³ The OTP has zero argument to offer against the Defence's demonstration of Customary International Law principles. Instead, it tries to prevent a judicial debate on these by extrapolating the Appeals Chamber OA4 Judgment. The OTP's position on the matter is in contradiction with the mandate of the Court to enforce and promote the rights of victims under international law pursuant to Articles 21(1)(b), 21(3) and 75(6) of its Statute, the entire body of international law governing the matter, the consistent practice followed by the various domestic systems of the world and all the Court's, including OTP's,⁹⁴ commitments to place "*Victims at the Centre*",⁹⁵ "*uphold the rights and dignity of victims*",⁹⁶ "*upholding and empowering victims' rights throughout all judicial stages*",⁹⁷ The Court, victims and, indeed, the OTP deserve much better than the position taken in its regrettable Observations on the matter.

45. The Defence adds the following references, as further elements supporting its demonstration of the Customary International Law nature of victims' right to reparations without condition of identification, prosecution, conviction or solvency of offenders and prays the Trial Chamber to adopt this as a principle governing reparations for victims before the Court.

*(a) Peace-Settlement Treaties and Other Instruments*⁹⁸

46. The Agreement for Lasting Peace through Permanent Cessation of Hostilities between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front (TPLF) signed in Pretoria of 2 November 2022 ("Pretoria Agreement") provides in Article 10(3) that "*the Government of Ethiopia shall implement a comprehensive national*

⁹² [Defence Observations](#), paras. 137-151.

⁹³ [Appeals Chamber OA4 Ruling](#), para. 20.

⁹⁴ [International Criminal Court Strategic Plan 2026-2029](#), p. 12: OTP Mission includes "*to bring justice to victims*".

⁹⁵ [International Criminal Court Strategic Plan 2026-2029](#), Strategic Goal No. 5.

⁹⁶ [International Criminal Court Strategic Plan 2026-2029](#), Introduction, p. 6.

⁹⁷ [International Criminal Court Strategic Plan 2026-2029](#), Strategic Goal No. 5, p. 49.

⁹⁸ [Defence Observations](#), paras. 60-69.

transitional justice policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation and healing".⁹⁹ On the basis of the Pretoria Agreement, Ethiopia developed its National Transitional Justice Policy providing reparations for victims on the basis of an Institutional Mechanism for Reparation (see below **Ethiopia**).¹⁰⁰

*(b) National Practices*¹⁰¹

47. In **Algeria**, victims can seek compensation irrespective of an offender's criminal conviction or trial through independent civil court actions, specialized State Solidarity Funds and civil party proceedings, which run separately from criminal prosecution. Article 316 of the Algerian Code of Criminal Procedure expressly provides the right of victims ("*parties civiles*") to reparations when the offender is acquitted or absolved of responsibility.¹⁰²

48. In **Ethiopia**, the National Transitional Justice Policy established an Institutional Mechanism of Reparation¹⁰³ in support of the works of its Truth Commission.¹⁰⁴ The Institutional Mechanism of Reparation shall provide "*restitution, rehabilitation, satisfaction, commemorative and memorial events, public apology, and other forms of reparation*" without condition of identification, prosecution, conviction or solvency of offenders. With the exception of "*most responsible perpetrators of gross human rights violations*", offenders are normally granted amnesty under the policy.¹⁰⁵

*(c) Practice of International Organisations*¹⁰⁶

49. The European Union Council Directive 2004/80/EC of 29 April 2004 ("Council Directive 2004/80/EC") relating to compensation to crime victims relies on the presupposition that "*Crime victims will often not be able to obtain compensation from the offender, since the offender may lack the necessary means to satisfy a judgment on damages or because the offender cannot be identified or prosecuted*".¹⁰⁷ Article 2 of Council Directive 2004/80/EC provides that "*Compensation shall be paid by the competent authority of the Member State on whose territory the crime was committed*", instead of the offenders.¹⁰⁸ The relevant competent authorities are established under article 3 of Council Directive 2004/80/EC.

⁹⁹ [Pretoria Agreement](#), art. 10(3).

¹⁰⁰ [National Transitional Justice Policy of Ethiopia](#), sect. 2.4.2.

¹⁰¹ [Defence Observations](#), paras. 70-105.

¹⁰² Algeria, [Code de Procédure Pénale](#), art. 316.

¹⁰³ [National Transitional Justice Policy of Ethiopia](#), sect. 2.4.2, pp. 13-14.

¹⁰⁴ [National Transitional Justice Policy of Ethiopia](#), sect. 2.2.2, pp. 11-12.

¹⁰⁵ [National Transitional Justice Policy of Ethiopia](#), sect. 2.3, pp. 12-13.

¹⁰⁶ [Defence Observations](#), paras. 106-113.

¹⁰⁷ European Union [Council Directive 2004/80/EC](#) relating to Compensation to Crime Victims, 29 April 2004, Preamble at (10).

¹⁰⁸ [Council Directive 2004/80/EC](#), art. 2.

(d) Practice of International Judicial and Quasi-Judicial Bodies, including the ICC¹⁰⁹

50. General Comment No. 31 of the United Nations Human Rights Committee (“Human Rights Committee”) specifically provides that “*Article 2, paragraph 3 [of the International Covenant of Civil and Political Rights (“ICCPR”)]¹¹⁰, requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged*” and that “*the right to an effective remedy may in certain circumstances require States Parties to provide for and implement provisional or interim measures to avoid continuing violations and to endeavour to repair at the earliest possible opportunity any harm that may have been caused by such violations*”,¹¹¹ thus relieving the right of victims to reparations from the condition of identification, prosecution, conviction or solvency of offenders.

51. In the case of *Fatma Zohra Boucherv. Algeria*, the Human Rights Committee relied on its General Comment No. 31 to rule that Article 2(3) “*requires State parties to ensure that individuals have accessible, effective and enforceable remedies to vindicate the rights enshrined in the Covenant. The Committee attaches importance to State parties' establishing appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law*”.¹¹² By this ruling, the Human Rights Committee confirmed that the right to an effective remedy under Article 2(3) of the ICCPR is an autonomous right and that States’ obligations to provide a remedy and financial restitution to victims of human rights violations under this provision stand without condition of identification, prosecution, conviction or solvency of offenders.

III – PROPOSED MULTI-PHASED APPROACH TO REPARATIONS

52. In light of the various Observations received from the Parties and Participants, and its above response thereto, the Defence submits that the following proposal may be of some assistance to the Trial Chamber’s deliberation on its reparations orders.

53. The proposed multi-phased approach is inspired by the various Observations received, particularly on (i) the absolute priority given to the awarding of immediate financial

¹⁰⁹ [Defence Observations](#), paras. 114-118.

¹¹⁰ [ICCPR](#), art. 2(3).

¹¹¹ Human Rights Committee, [General Comment No. 31](#), doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, paras. 16, 19.

¹¹² Human Rights Committee, [Fatma Zohra Boucherv. Algeria](#), UN Doc. CCPR/C/86/D/1196/2003, 30 March 2006, sect. 9.9.

compensation, even if symbolic, to victims;¹¹³ (ii) the dichotomy between the 1,592 participating victims already represented by the LRV and the wider number of potential victims identified in the Mapping Report, and the urgency of awarding reparations to the first group without delaying these for the purpose of including the second group; (iii) the various levels of complexity and the time-consuming nature of effecting some proposed measures, especially those contemplated as forms of rehabilitation,¹¹⁴ in contrast to the relatively straightforward nature of financial compensation; (iv) the need for transparency, fairness and consistency militating in favour of an approach that is standardized as much as possible;¹¹⁵ and (v) the delay taken since 2007 in raising funds for reparations in favour of Darfur victims and the need for urgent fundraising action mobilising all resources of the Court, in addition to the LRV and the Defence, as appropriate.¹¹⁶ It is also an elaboration of the recommendation made at paragraph 70 of the Registry Observations.¹¹⁷

54. The Defence respectfully recommends the adoption of a multi-phased approach by the Trial Chamber. This approach would consist of a layered implementation of reparations measures according to priorities and feasibility, principally the factor of available means.

55. At the outset, the TFV should immediately engage in fundraising activities in favour of Darfur victims, as it should have done since 2007. All resources of the Court, including the LRV and the Defence, should be mobilised in such fundraising efforts in support of the TFV. The efforts should be directed towards all potential donors, including (i) States Parties, targeted individually and through the Assembly of States Parties, (ii) non-States Parties, (iii) international organisations, in the first place the United Nations pursuant to Article 115(b) of the Statute and Resolution 1593 (in its Preamble and in paragraph 2)¹¹⁸ and (iv) private donors. Timidity on the part of the Court should play no part in its efforts to raise funds for Darfur victims. Its efforts should be relentless for as long as the TFV has not received sufficient funds for the implementation of all reparations measures that the Trial Chamber will find appropriate to order. The TFV should regularly report to the Trial Chamber on the results of these fundraising efforts,

¹¹³ [LRV Observations](#), paras. 20, 109-127; [Amicus 1 Observations](#), paras. 31-37; [OTP Observations](#), para. 33; [Registry Observations](#), paras. 47-70, 183; [Amicus 2 Observations](#), para. 40; [Amicus 3 Observations](#), paras. 26-29, 42.

¹¹⁴ [LRV Observations](#), paras. 128-226; [Amicus 1 Observations](#), paras. 41-48; [Registry Observations](#), paras. 107-121; [Amicus 2 Observations](#), paras. 25-30, 36, 38; [Amicus 3 Observations](#), paras. 31-35, 43-44.

¹¹⁵ [Registry Observations](#), para. 66.

¹¹⁶ [Defence Requête](#), para. 100: “*Principe Additionnel de la Réparation No. 4 – Récolte des Fonds en vue du Financement des Réparations*”, quoted in English under (vii) above.

¹¹⁷ [Registry Observations](#), para. 70.

¹¹⁸ UNSC, [Resolution 1593](#), 31 March 2005, Preamble (para. 3) and para. 2.

so that the Court, the LRV and the Defence remain updated about the situation, of the foreseeable implementation of reparations measures, and of the need to continue their efforts.

56. In parallel to these fundraising efforts, but for a limited period of time to be determined by the Trial Chamber, the Registry should actively engage in the collection of applications for reparations from the potential victims identified in the Mapping Report, with the three caveats submitted by the Defence at (i) above. The application process should follow the lesser standard of proof and identification of applicants recommended at (ii) above. This round of collection of applications for reparations may take inspiration from the Additional Principles of Reparations 1, 2, 3 and 5 proposed by the Defence in its *Requête* as applied *mutatis mutandis* to the current phase of the proceedings.¹¹⁹ The window open for the collection of applications for reparations should be limited in time. If the current situation in Sudan and the wider region prevents the effective collection of a significant number of applications, the Registry may inform the Trial Chamber, which may then consider limited extensions of time, as long these do not jeopardize the meaningful execution of reparations.

57. Once the conditions, particularly the availability of funds, are met, a first phase of reparations measures should be implemented without delay for the benefit of the 1,592 participating victims. This first phase should consist of the payment of a symbolic financial award. Its precise amount should be determined by the Trial Chamber, taking into account the views of the victims reported in the various Observations. These financial awards should be clearly identified as a first round of reparations, pending implementation of more ambitious, more complex modalities. These only aim at addressing the most urgent needs of the participating victims, who are already fully identified and can be engaged with without further delay.

58. Upon completion of the first phase, more ambitious reparations measures may be envisaged, depending on (i) the availability of funds as a result of the Court's ongoing fundraising campaign and the Defence Second Additional Principle of Reparations, and (ii) the number of victims applications for reparations collected. These two figures are unknown at the present time. That is why the Defence recommends that the Trial Chamber should not issue only one Reparations Order, but may issue more orders, or subsequent amplifications of the first Order, as the situation unfolds. By doing so, the Trial Chamber will keep a close and active monitoring on reparations efforts, as recommended by the LRV and the Defence.¹²⁰ The second and following reparations phass may constitute an extension compared to the first phas in two different ways.

¹¹⁹ [Defence Requête](#), para. 100 : “*Principe Additionnel de la Réparation*” no. 1 (pp. 50-51), 2 (p. 51), 3 (pp. 51-52) and 5 (p. 53).

¹²⁰ [LRV Observations](#), paras. 7, 13, 269-271; [Defence Observations](#), paras. 8-12.

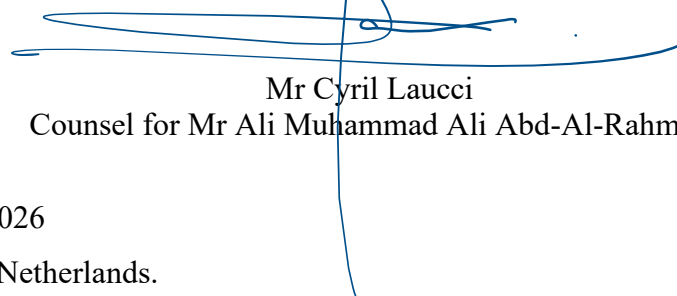
The first way is an expansion of the number of victim beneficiaries. The upper limit to that expansion corresponds to the figures provided in the Registry's Mapping Report. The second way is a diversification of the reparations measures.

59. The first phase symbolic financial award to participating victim may be completed by a further financial compensation award tailored to the nature and extensiveness of the harm suffered. This is where the *pretium doloris* schedule proposed by the Defence at (v) above would become relevant. This second phase of financial compensation may complete the first phase symbolic award and this time reach a larger group of victims than just the victims participants.

60. Further reparations phases may follow. The Defence has taken note of the Observations regarding the different modalities of reparations, including restitution¹²¹ and the priority given to rehabilitation measures improving schooling and health services.¹²² On restitution, the Defence refers to its submissions in support of its Second Reparations Principle,¹²³ in addition to the other Observations. On rehabilitation, the Defence limits itself to respectfully recommending the approach that is the most straightforward, least complex to implement, and with the least external partners possible, in order to avoid unnecessary delays and indirect costs. It is as part of these further reparations phases, once individual compensation has been secured, that collective measures benefiting the community as a whole may be implemented, if feasible.

61. Finally, the Defence is aware of the difficulties identified in the Observations regarding the implementation of cash transfers to Sudan and its regions, including as a result of the ongoing armed conflict.¹²⁴ However, solutions do exist and have been relied upon by the Defence throughout the proceedings. If necessary, the Defence will be pleased to share with the Chambers and the Parties the solutions it is successfully using.

Respectfully submitted.



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Dated this 03 July 2026

At The Hague, The Netherlands.

¹²¹ [Amicus 1 Observations](#), paras. 38-40; [Registry Observations](#), paras. 22-46; [LRV Observations](#), paras. 227-235; [Amicus 3 Observations](#), para. 31.

¹²² [Amicus 1 Observations](#), paras. 44, 46 ; [Registry Observations](#), paras. 71-106; [LRV Observations](#), paras. 175-226; [Amicus 2 Observations](#), paras. 25-30; [Amicus 3 Observations](#), paras. 34-40, 45-47.

¹²³ [Defence Observations](#), paras. 15, 147.

¹²⁴ [Registry Observations](#), para. 64; [Amicus 2 Observations](#), para. 40; [Amicus 3 Observations](#), para. 29.