

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: *English*

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

Date: **10 July 2026**

Date of original: **27 June 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

**Public Redacted Version of
Request for Leave to Reply Registry’s Submission #1352
and Extension of Time Limit to Respond on Reparations
(ICC-02/05-01/20-1353-Conf, 27 June 2026)**

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

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for
Victims

☒ The Office of Public Counsel for the
Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☒ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

1. The Defence of Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Defence”) hereby seeks leave to reply the Registry’s observations of 26 June 2026 (“Response”)¹ in response to its application under Regulation 23*bis*(3) of the Regulations of the Court (“RoC”) (“RoC 23*bis* Application”)² and extension of the time limit of 3 July 2026 to respond on Reparations pursuant to Regulation 35(2) of the RoC.

2. Pursuant to Regulation 23*bis*(2) of the RoC, the present application is classified confidential which is the classification of the version of the Report notified to the Defence. In due course, the Defence will request the reclassification of its RoC 23*bis* Application, of the Response and of the present request as public, to preserve Mr Abd-Al-Rahman’s right to a public hearing.

LEAVE TO REPLY

3. The Response is misleading in many aspects, to a level that was impossible to expect and could not be reasonably anticipated by the Defence when it prepared and submitted its RoC 23*bis* Application, thus fulfilling the criterion for leave to reply under Regulation 24(5) of the RoC. In the interests of justice, the Chamber also needs to be informed of the extent to which the Response is misleading. The present request for leave to reply aims at opening the eyes of the Chamber on this.

4. With leave from the Trial Chamber, the Defence’s reply will address the five following issues:

- (i) The Registry misled the Trial Chamber a first time when it submitted, on 19 June 2026, when it submitted that “*the Registry has actively engaged in this process*” of consulting the Prosecution on the matter.³ The RoC23*bis* Application was before the Trial Chamber since 5 June 2026. On 12 June 2026, the Trial Chamber instructed the Registry to file a response by 22 June 2026. Paragraph 6 of the Response informs that nothing was done to consult the Prosecution prior to 19 June 2026 at 12.29, i.e. in the minutes, maximum hours preceding the submission of the request for extension of time. The submission that “*the Registry has actively engaged in this process*” is thus entirely misleading and misrepresents the truth. The delay in the resolution of the RoC23*bis* Application is directly prejudicial to the Defence, which finds itself hamstrung in completing its Response of Reparations by 3 July 2026 without having the full picture. The fact that it will have another opportunity to address the Trial

¹ ICC-02/05-01/20-1352-Conf-Red.

² ICC-02/05-01/20-1347-Conf.

³ E-mail from Registry to the Trial Chamber, 19 June 2026, 12.29.

Chamber orally on 8 September 2026 does not reduce its prejudice, because the Defence is compelled to advance its position on the issue of reparations without having full information on their potential impact on Mr Abd-Al-Rahman and it may be too late to vary it, should the information currently hidden from the Defence require so;

- (ii) The Registry misled the Trial Chamber a second time when it submitted, on 19 June 2026, when it submitted that “*the issue at hand presents a degree of novelty*”. None of the issues addressed in the Response is novel. It is yet another aspect of the same issue of protection of confidentiality and compliance with ICC policies on the matter dated 2006 and 2007 that the Defence has relied upon again and again throughout the proceedings and which are now pending before the Appeals Chamber under GoA 19. Despite their crucial importance for the fairness of the proceedings and though essentially agreeing with the merits of the Defence’s submissions on the matter,⁴ the Pre-Trial Chamber and the Trial Chamber have shown their lack of interest and appetite in addressing this matter, which is now taken advantage in the Response. This forms part of the endemic shortcomings the ICC as a whole is suffering from in its daily functioning, which will carry on impacting on it as long as Chambers do not give it a stop and impose their resolution. Leave to reply is sought in order to provide the Trial Chamber with all legal elements and information to address these properly;⁵
- (iii) The submission that preventing disclosure of the information is necessary for ongoing investigations under Regulation 117 of the RoC and/or Regulation 132(5) of the Regulations of the Registry (“RoR”)⁶ is also misleading, as Mr Abd-Al-Rahman has repeatedly stated its firm intention to fully comply with these investigations;⁷
- (iv) The submission that information [REDACTED] shall be kept confidential is also ill-advised and misleading. It is ill-advised because keeping that information confidential, by opposition to under seal and *ex parte*, is precisely what the Defence is asking for. The Defence has never suggested to make that information public. It is misleading because the information coming [REDACTED] **cannot** be classified under seal, as this specific level of classification is not provided under the applicable

⁴ [ICC-02/05-01/20-402](#), para. 42: “*the Chamber agrees that it would be preferable for all confidential documents to be clearly marked as such in accordance with the Court’s policies on information security*”; T-017, p. 48 (quoting PTC II); T-083, p. 91.

⁵ [ICC-02/05-01/20-1351 A](#), para. 68.

⁶ ICC-02/05-01/20-1352-Conf-Red, paras. 7-8.

⁷ [ICC-02/05-01/20-1338-Red](#), para. 30.

ICC policies governing their protection. This aspect, specifically raised in the RoC 23bis Application is left unanswered and unchallenged in the Response. In its Reply, the Defence will provide the Trial Chamber with further information on the applicability of the various levels of classification under Regulation 14 of the RoR and the various applicable ICC policies, so that the Trial Chamber is in possession of all relevant elements to resolve this issue;

- (v) Eventually, the Registry fails to draw the consequences of [REDACTED],⁸ which, as a minimum and as a most basic rule of the law on treaties, i.e. reciprocity, has relieved the Court from any obligation [REDACTED], including with respect to confidentiality. The Defence is not suggesting that the Court should stop respect confidentiality [REDACTED]; it is simply suggesting that it has no obligation bearing on it preventing the confidential sharing of information [REDACTED] to the Defence whenever necessary for the fairness of the ongoing proceedings. In the absence of cooperation [REDACTED], there can be no residual obligation preventing the sharing with the Defence of information of relevance for its submissions on reparations. [REDACTED].

EXTENSION OF TIME LIMIT

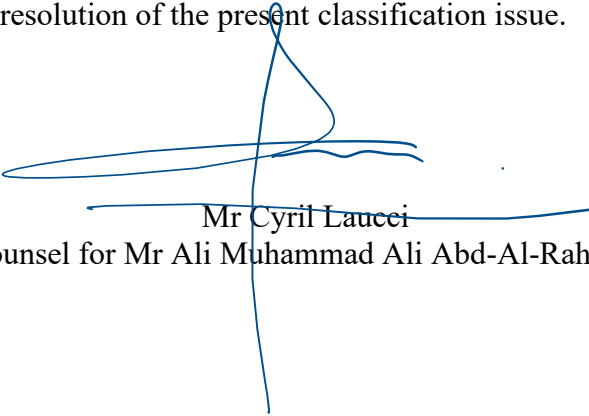
5. For the reasons mentioned under (i) above, the Defence is not in a position to complete its Response on Reparations currently due for 3 July 2026. In its Observations on Reparations, the Defence has taken a position that is based on the information in its possession and in possession of Mr Abd-Al-Rahman regarding, in particular, the absence of any assets owned, or believed to be owned by him. Now that new information has been made available on this issue, the Defence cannot be asked to persist or amend its position without knowing it and without having had the possibility to discuss it with Mr Abd-Al-Rahman in order to take his instructions. Should that information have any impact on the Defence's position on reparations, it shall be addressed in its Response. In all fairness, the Trial Chamber cannot require the Defence to persist in its position on reparations, while knowing that there are information available that may impact thereon. This would result in fooling the Defence into a trap and would be irreconcilable with any notion of fairness of the proceedings. The non-disclosure of the information, the non-resolution of the RoC23bis Application and the undue delay caused by the Registry in its misleading application for extension of time⁹ together converge in creating good cause, under

⁸ [REDACTED].

⁹ E-mail from Registry to the Trial Chamber, 19 June 2026, 12.29.

Regulation 35(2) of the RoC, for extending the time limit for submission of the Defence's response on reparations until such a date following the final resolution of the reclassification issue, disclosure of the relevant information to the Defence as warranted and allowing it some days to digest it in its Response on Reparations.

FOR THE FOREGOING REASONS, THE DEFENCE PRAYS THE TRIAL CHAMBER TO AUTHORIZE the Defence to reply on the five issues identified above and **TO GRANT** the Defence with an extension of time limit for the submission of its Response on Reparations until some days after the final resolution of the present classification issue.



Mr Cyril Laucei
Counsel for Mr Ali Muhammad Ali Abd-Al-Rahman

Dated this 10 July 2026

At The Hague, The Netherlands.