

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20
Date: 24 December 2021

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

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Mr Julian Nicholls

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Legal Representatives of the Victims

Ms Natalie von Wistinghausen
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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

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

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

III. SUBMISSIONS

3. On 23 December 2021, the Prosecution disclosed to the Defence four packages of evidence consisting of 282 items (2.614 pages):
 - Pre-Trial INCRIM package 87, containing 77 items (698 pages), including material related to 45 witnesses;¹
 - Pre-Trial INCRIM package 88, containing 76 items (852 pages), including material related to 12 witnesses² and the biometric examination of Mr Abd-al-Rahman;³

¹ DAR-OTP-P-0008, DAR-OTP-P-0015, DAR-OTP-P-0021, DAR-OTP-P-0023, DAR-OTP-P-0025, DAR-OTP-P-0026, DAR-OTP-P-0028, DAR-OTP-P-0029, DAR-OTP-P-0059, DAR-OTP-P-0060, DAR-OTP-P-0082, DAR-OTP-P-0087, DAR-OTP-P-0096, DAR-OTP-P-0109, DAR-OTP-P-0110, DAR-OTP-P-0112, DAR-OTP-P-0117, DAR-OTP-P-0118, DAR-OTP-P-0120, DAR-OTP-P-0129, DAR-OTP-P-0188, DAR-OTP-P-0547, DAR-OTP-P-0591, DAR-OTP-P-0617, DAR-OTP-P-0675, DAR-OTP-P-0714, DAR-OTP-P-0717, DAR-OTP-P-0719, DAR-OTP-P-0726, DAR-OTP-P-0755, DAR-OTP-P-0834, DAR-OTP-P-0850, DAR-OTP-P-0867, DAR-OTP-P-0868, DAR-OTP-P-0874, DAR-OTP-P-0878, DAR-OTP-P-0882, DAR-OTP-P-0894, DAR-OTP-P-0903, DAR-OTP-P-0912, DAR-OTP-P-0913, DAR-OTP-P-0918, DAR-OTP-P-0919, DAR-OTP-P-0924, and DAR-OTP-P-0980.

² DAR-OTP-P-0013, DAR-OTP-P-0087, DAR-OTP-P-0129, DAR-OTP-P-0547, DAR-OTP-P-0736, DAR-OTP-P-0878, DAR-OTP-P-0905, DAR-OTP-P-0918, DAR-OTP-P-0926, DAR-OTP-P-0931, DAR-OTP-P-0976, and DAR-OTP-P-0980.

³ DAR-OTP-0219-9000.

- Pre-Trial Rule 77 package 50, containing 113 items (623 pages), including material related to 13 witnesses;⁴ and
 - Pre-Trial Rule 77 package 51, containing 16 items (441 pages) responsive to keywords provided by the Defence and material to their preparation.
4. With concern to redactions, the Prosecution has applied identity redactions under code F to items related to two witnesses.⁵ These witnesses are subject to delayed disclosure.⁶ The Prosecution also applied “standard” redactions, in light of the procedure for exceptions to disclosure stipulated by the Single Judge of Pre-Trial Chamber II on 17 August 2020.⁷



Karim A. A. Khan QC
Prosecutor

Dated this 24th day of December 2021,
At The Hague, The Netherlands

⁴ DAR-OTP-P-0026, DAR-OTP-P-0085, DAR-OTP-P-0138, DAR-OTP-P-0140, DAR-OTP-P-0288, DAR-OTP-P-0547, DAR-OTP-P-0550, DAR-OTP-P-0593, DAR-OTP-P-0606, DAR-OTP-P-0613, DAR-OTP-P-0647, DAR-OTP-P-0736, and DAR-OTP-P-0769.

⁵ See Decision on the Prosecutor’s Request for Postponement of the Confirmation Hearing and related deadlines, 2 November 2020, ICC-02/05-01/20-196, para. 34.

⁶ Prosecution’s withdrawal of non-disclosure requests concerning Witnesses P-0129 and P-0877, and provision of updates concerning Witnesses P-0188 and P-0065, 30 March 2021, ICC-02/05-01/20-328-Conf; Prosecution’s request to authorise delayed disclosure of witnesses’ identities, 3 December 2021, ICC-02/05-01/20-527-Conf-Exp.

⁷ Order on disclosure and related matters, 17 August 2020, ICC-02/05-01/20-116, paras. 12-13.