



Original: **English**

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

Date: 25 March 2022

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**

**Addendum to the “Corrected version of ‘Prosecution Trial Brief’, 5 January 2022,
ICC-02/05-01/20-550-Conf-Exp-Corr”**

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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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
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States Representatives

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Mr Nigel Verrill

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**Victims Participation and Reparations
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Mr Philipp Ambach

Other

1. On 22 February 2022, the Office of the Prosecutor ("Prosecution") requested that Trial Chamber I ("Chamber") notify the Parties and Participants of the possibility of the legal re-characterisation of facts related to Mr Abd-Al-Rahman's individual criminal responsibility, as described in the Decision on the Confirmation of Charges ("Confirmation Decision")¹ and the Document Containing the Charges,² pursuant to regulation 55 (2) of the Regulations of the Court ("Regulations").³
2. On 18 March 2022, the Chamber issued notice of the possibility that the legal characterisation of the facts under Counts 1-11 in the Document Containing the Charges, may be subject to change to include the mode of liability of "ordering" under Article 25(3)(b) of the Rome Statute.⁴ It further directed the Prosecution "to file an addendum to its Trial Brief laying out its case in relation to the possible legal re-characterisation of facts."⁵
3. In compliance with the Chamber's decision, the Prosecution hereby files the said addendum, as confidential Annex A⁶ to this submission.



Karim A. A. Khan QC
Prosecutor

Dated this 25th day of March 2022

At The Hague, The Netherlands

¹ [ICC-02/05-01/20-433-Corr](#) ("Confirmation Decision").

² [ICC-02/05-01/20-325-Anx1-Corr2-Red](#) ("DCC").

³ [ICC-02/05-01/20-604-Red](#).

⁴ [ICC-02/05-01/20-634](#), para. 25.

⁵ [ICC-02/05-01/20-634](#), para. 26.

⁶ Pursuant to regulation 23bis(1) of the Regulations of the Court, Annex A is classified as confidential, since it contains sensitive information regarding the identities of Prosecution witnesses. The Prosecution will file a public redacted version as soon as practicable.