

Situation in Darfur, Sudan

ICC-PIDS-CIS-SUD-001-005/18_Eng

Updated: April 2018

The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")

ICC-02/05-01/07

Suspected of 20 counts of crimes against humanity allegedly committed in Darfur, Sudan. Not in ICC custody.

Ahmad Muhammad Harun (Ahmad Harun)



Date of birth: Approx. 1964

Place of birth: North Kordofan, Sudan

Nationality: Sudanese

Warrant of arrest: 27 April 2007

Status of proceedings: The execution of the arrest warrant is pending

Charges

The warrant of arrest against Ahmad Harun lists 42 counts on the basis of his individual criminal responsibility (articles 25(3)(b) and 25(3)(d) of the Rome Statute) including:

- Twenty counts of crimes against humanity: murder (article 7(1)(a)); persecution (article 7(1)(h)); forcible transfer of population (article 7(1)(d)); rape (article 7(1)(g)); inhumane acts (article 7(1)(k)); imprisonment or severe deprivation of liberty (article 7(1)(e)); and torture (article 7(1)(f)); and
- Twenty-two counts of war crimes: murder (article 8(2)(c)(i)); attacks against the civilian population (article 8(2)(e)(i)); destruction of property (article 8(2)(e)(xii)); rape (article 8(2)(e)(vi)); pillaging (article 8(2)(e)(v)); and outrage upon personal dignity (article 8(2)(c)(ii)).

Ali Muhammad Ali Abd-Al-Rahman (Ali Kushayb)



Date of birth: Approx. 1957

Place of birth: Sudan

Nationality: Sudanese

Warrant of arrest: 27 April 2007

Status of proceedings: The execution of the arrest warrant is pending

Charges

The warrant of arrest against Ali Kushayb lists 50 counts on the basis of his individual criminal responsibility under articles 25(3)(a) and 25(3)(d) of the Rome Statute, including:

- **Twenty-two counts of crimes against humanity:** murder (article 7(1)(a)); deportation or forcible transfer of population (article 7(1)(d)); imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law (article 7(1)(e)); torture (article 7(1)(f)); persecution (article 7(1)(h)); inhumane acts of inflicting serious bodily injury and suffering (article 7(1)(k)).
- **Twenty-eight counts of war crimes:** violence to life and person (article 8(2)(c)(i)); outrage upon personal dignity in particular humiliating and degrading treatment (article 8(2)(c)(ii)); intentionally directing an attack against a civilian population (article 8(2)(e)(i)); pillaging (article 8(2)(e)(v)); rape (article 8(2)(e)(vi)); destroying or seizing the property (article 8(2)(e)(xii)).

Alleged crimes (non-exhaustive list)

Pre-Trial Chamber I considered that there are reasonable grounds to believe that:

- An armed conflict took place allegedly between the Government of Sudan including combatants from the Sudan People's Armed Forces (the Sudanese Armed Forces) and the Popular Defence Force (PDF) along with the *Janjaweed* militia against organised rebel groups, including the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) in Darfur, Sudan. It is alleged that the Sudanese Armed Forces and the *Janjaweed* militia, acting together as part of the counter-insurgency campaign, carried out several attacks, of a systematic or widespread nature, on the towns of Kodoom, Bindisi, Mukjar, Arawala and surrounding areas in 2003 and 2004. In the above mentioned towns criminal acts were allegedly committed against civilians primarily from the Fur, Zaghawa and Masalit populations, such as murders of civilians, rapes and outrages upon the personal dignity of women and girls, persecution, forcible transfers, imprisonment or severe deprivation of liberty, and attacks intentionally directed against the above-mentioned populations.
- Ahmad Harun served from 2003 to 2005 as Minister of the State for the Interior of the Government of Sudan and allegedly in charge of the management of the "Darfur Security Desk" thereby coordinating the different bodies of the government involved in the counter-insurgency, including the Police, the Armed Forces, the National Security and Intelligence Service and the *Janjaweed* militia. Ahmad Harun, by virtue of his above-mentioned position, had knowledge of the crimes committed against the civilian population and of the methods used by the *Janjaweed* militia; it is alleged that in his public speeches Ahmad Harun not only demonstrated that he knew that the *Janjaweed* militia were attacking civilians and pillaging towns and villages, but also personally encouraged the commission of such illegal acts; and that due to his position at the Darfur Security Desk and through his overall co-ordination and personal participation in key activities of the Security Committees, namely the recruiting, arming and funding of the *Janjaweed* militia in Darfur, Ahmad Harun intentionally contributed to the commission of the above-mentioned crimes.
- Ali Kushayb, one of the most senior leaders in the tribal hierarchy in the Wadi Salih locality and member of the Popular Defence Forces (PDF), allegedly commanded thousands of *Janjaweed* militia from on or about August 2003 until on or about March 2004. Ali Kushayb is alleged to have implemented the counter-insurgency strategy of the Government of Sudan that also resulted in the commission of war crimes and crimes against humanity in Darfur, Sudan. Ali Kushayb is perceived to be the mediator between the leaders of the *Janjaweed* militia in Wadi Salih and the Government of Sudan. He is also alleged to have enlisted fighters, armed, funded and provided food and other supplies to the *Janjaweed* militia under his command, thereby intentionally contributing to the above-mentioned crimes. Ali Kushayb is alleged to have personally participated in some of the attacks against civilians namely in the towns of Kodoom, Bindisi, Mukjar and Arawala between August 2003 and March 2004, where the killing of civilians, rape, torture and other cruel treatments occurred, therefore he allegedly committed, jointly with others, the above-mentioned crimes.

Key judicial developments

REFERRAL AND OPENING OF THE INVESTIGATION

The International Commission of Inquiry on Darfur was established by UN Secretary-General Kofi Annan pursuant to Security Council resolution 1564. The Commission reported to the UN in January 2005, that there was reason to believe that crimes against humanity and war crimes had been committed in Darfur and recommended the referral of the situation to the ICC.

Using its authority under the Rome Statute, the United Nations Security Council referred the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court in resolution 1593 on 31 March 2005.

Following the referral from the United Nations Security Council, the Prosecutor received the conclusion of the International Commission of Inquiry on Darfur. In addition, the Office of the Prosecutor requested information from a variety of sources, leading to the collection of thousands of documents. The Prosecutor concluded that the statutory requirements for initiating an investigation were satisfied and decided to open the investigation on 6 June 2005.

WARRANTS OF ARREST

On 27 April 2007, Pre-Trial Chamber I issued two warrants of arrest, against Ali Kushayb and Ahmad Harun. Harun and Kushayb are still at large.

On 25 May 2010, Pre-Trial Chamber I issued a decision informing the United Nations Security Council about the lack of co-operation by the Republic of the Sudan in the case of *The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al Rahman ("Ali Kushayb")*, in order for the Security Council to take any action it may deem appropriate.

PARTICIPATION OF VICTIMS

Pre-Trial Chamber I granted 6 persons the status of victim authorised to participate in the case of *The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al Rahman ("Ali Kushayb")*.

Composition of Pre-Trial Chamber II

Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

Representation of the Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Defence Counsel for Kushayb

N/A

Defence Counsel for Harun

N/A

Legal Representatives of the Victims

Nicholas Kaufman