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No.: ICC-02/05-01/20
Date: 7 September 2020

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.*
ALI MUHAMMAD ALI ABD-AL-RAHMAN (“ALI KUSHAYB”)**

Public

Prosecution’s second progress report on the evidence review, translation and disclosure process

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

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Victims and Witnesses Unit

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**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. In accordance with the order of Single Judge Rosario Salvatore Aitala, acting for Pre-Trial Chamber II, dated 17 August 2020,¹ the Prosecution submits its second progress report on the evidence review, translation and disclosure process.

II. SUBMISSIONS

2. The Prosecution submits that the following progress has been made with regard to the evidence review, translation and disclosure process relating to Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”) since the first progress report (“First Progress Report”) was submitted on 24 August 2020.²

Evidence Review

3. Since 24 August 2020, the Prosecution has conducted the primary review of a total of 1,436 items (5,241 pages)³ of evidence in its database relating to the situation in Darfur.⁴ Of the total number of items reviewed by the Prosecution, 44 items (130 pages) are affected by agreements in accordance with articles 54(3)(e), 72 and 93 of the Rome Statute. As stated in the First Progress Report, the Prosecution will send requests for consent to lift restrictions on disclosure to the relevant information providers on a rolling basis.⁵

¹ *Prosecutor v. Abd-Al-Rahman (“Ali Kushayb”)*, Order on disclosure and related matters, 17 August 2020, ICC-02/05-01/20-116, p. 8.

² *Prosecutor v. Abd-Al-Rahman (“Ali Kushayb”)*, Prosecution’s first progress report on the evidence review, translation and disclosure process, 24 August 2020, ICC-02/05-01/20-131.

³ In order to ensure the quality of the evidentiary review, each item in the Prosecution’s collection is required to undergo both primary and secondary review. Of 1,436 items, to date 25 items have been subject to secondary review. 1002 items (1024 pages) are Pre-Registration Forms that have only been subject to primary review.

⁴ This total number of items includes a total of 15 witness statements and transcripts.

⁵ *Prosecutor v. Abd-Al-Rahman (“Ali Kushayb”)*, Prosecution’s first progress report on the evidence review, translation and disclosure process, 24 August 2020, ICC-02/05-01/20-131, para. 3.

Translation and Transcription

4. Since the First Progress Report, the Language Services Unit (“LSU”) has completed 170 draft pages of Arabic to English translations and completed 77 draft pages of English to Arabic translations.

Disclosure

5. On 31 August 2020, the Prosecution disclosed 3 packages of evidence consisting of 852 items (6,288 pages) via the e-court system with the required metadata fields and necessary redactions to the Defence.⁶ The first package – Pre-Confirmation INCRIM package 1 – contained 47 items (393 pages) of incriminating evidence on which the Prosecution intends to rely at the confirmation hearing pursuant to article 61(3)(b) of the Statute. The second and third packages – Pre-Confirmation R77 packages 1 and 2 – contained 805 items (5,895 pages) subject to inspection as material to the preparation of the Defence under rule 77 of the Rules of Procedure and Evidence. The Prosecution will continue to disclose relevant items to the Defence on a monthly basis.

⁶ The Defence acknowledged receipt of the disclosure packages by email on 1 September 2020. The Prosecution will submit the disclosure notification to the Chamber as soon as the signed disclosure reports are received from the Defence.

III. CONCLUSION

6. The Prosecution respectfully submits this report on its progress regarding the evidence review, translation and disclosure process related to Mr Abd-Al-Rahman since 24 August 2020.



James Stewart
Deputy Prosecutor

Dated this 7th day of September 2020

At The Hague, The Netherlands