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No.: ICC-02/05-01/20
Date: 8 December 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
with Confidential Annexes A-C**

Prosecution's notification of the disclosure of evidence on 7 December 2020

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

Mr James Stewart

Mr Julian Nicholls

Counsel for the Defence

Mr Cyril Laucci

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**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Prosecution submits to the Single Judge Rosario Salvatore Aitala (“Single Judge”), acting for Pre-Trial Chamber II, this notification of the disclosure of evidence pursuant to articles 61(3)(b) of the Rome Statute.

II. CLASSIFICATION

2. This filing is classified as public with confidential Annexes A-C. The Prosecution classifies Annexes A-C as confidential since they relate to *inter partes* disclosure.

III. SUBMISSIONS

3. On 7 December 2020, the Prosecution disclosed to the Defence 252 items (2,301 pages). The disclosed items are in the following packages:

- Pre-Confirmation INCRIM package 11: contains 32 items (307 pages);
- Pre-Confirmation INCRIM package 12: contains 159 items (1,714 pages);
- Pre-Confirmation INCRIM package 13: contains 61 items (280 pages).

4. The Prosecution informs the Single Judge that in these INCRIM packages, all items are either relied upon by the Prosecution for the purpose of establishing the link between Abd-Al-Rahman and Ali Kushayb and/or cited in the first and second Arrest Warrant applications and/or will be relied upon at the confirmation hearing.

6. In relation to the witnesses whose identity can be disclosed to the Defence, the redactions applied to the items related to these witnesses are minimal and they are applied according to the procedure for exceptions to disclosure that was adopted by the Single Judge on 17 August 2020.¹

7. In relation to the witnesses whose identity cannot be disclosed to the Defence at this stage, the Prosecution applied the redactions to the information that might reveal

¹ ICC-02/05-01/20-116, para. 12.

the witnesses' identity. The Prosecution used code F for such redactions. The Prosecution will submit an application for the authorisation of the non-disclosure of the identifying information of the concerned witnesses as instructed by the Chamber.²

8. In relation to items DAR-OTP-0094-0165, DAR-OTP-0097-0328, DAR-OTP-0128-0128 and DAR-OTP-0210-0401, the Prosecution applied redactions under the category B.5 to the face of a witness or to the name of the camp of the displaced persons where the witnesses were residing at the time of interview in order to protect other Prosecution witnesses and their family members still residing in that camp.



James Stewart
Deputy Prosecutor

Dated this 8th day of December 2020

At The Hague, The Netherlands

² ICC-02/05-01/20-196, para. 34.