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

Date: 18 January 2021

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-E**

Prosecution's notification of the disclosure of evidence on 15 January 2021

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-F. The Prosecution classifies Annexes A-F as confidential since they relate to *inter partes* disclosure.

III. SUBMISSIONS

3. On 15 January 2021, the Prosecution disclosed to the Defence 2,450 items (6,183 pages). The disclosed items are in the following packages:

- Pre-Confirmation INCRIM package 16: contains 498 items (2,812 pages)
- Pre-Confirmation INCRIM package 17: contains 578 items (860 pages)
- Pre-Confirmation Rule 77 package 12: contains 1,360 items (2,464 pages)
- Pre-Confirmation PEXO package 2: contains 13 items (22 pages)
- Pre-Confirmation Image Update package 1: contains 1 item (25 pages)

4. INCRIM Packages 16 and 17 contain items related to five witnesses not previously disclosed to the Defence.

5. Pre-Confirmation Image Update package 1 contains the statement of Witness P-0119 that was disclosed on 7 December 2020 with redactions applied to the identifying information of the witness. The Chamber informed the Prosecution via e-mail on 12 January 2021 that some identifying information of this witness was left un-redacted. The Prosecution has now implemented redactions to the identifying information that was missed, as well as a small number of additional redactions under the same category.

6. The Prosecution informs the Single Judge that in these INCRIM packages, the majority of the disclosed items were cited in the first and/or second applications under article 58 of the Rome Statute and/or will be relied upon at the confirmation hearing.

7. Most of the disclosed items relate to witnesses whose identity can be disclosed to the Defence. The redactions applied to these items are minimal and are applied according to the procedure for exceptions to disclosure that was adopted by the Single Judge on 17 August 2020.¹

8. In relation to the item DAR-OTP-0206-0033, the Prosecution applied redactions under code F to information related to a witness whose identity cannot be disclosed to the Defence at this stage. The Prosecution intends to submit an application for the authorisation of the non-disclosure of the identifying information of the concerned witness as instructed by the Chamber.²

9. In relation to item DAR-OTP-0094-0091, the Prosecution applied redactions under category B.5 to the name of a camp of internally displaced persons visited by the witness in order to protect other Prosecution witnesses and their family members still residing in that camp.



James Stewart
Deputy Prosecutor

Dated this 18th day of January 2021

At The Hague, The Netherlands

¹ [ICC-02/05-01/20-116](#), para. 12.

² [ICC-02/05-01/20-196](#), para. 34.