



Original: **English**

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

Date: **16 March 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-J**

**Prosecution’s notification of the disclosure of evidence
between 5 and 15 March 2021**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Legal Representatives of the Applicants

Unrepresented Victims

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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-J. The Prosecution classifies Annexes A-J as confidential since they relate to *inter partes* disclosure and contain confidential information.

III. SUBMISSIONS

3. On 5 March 2021, the Prosecution disclosed to the Defence one package of evidence consisting of 19 items (162 pages). These items are in Pre-Confirmation INCRIM package 26. They were originally collected under article 54(3)(e) restrictions which have recently been lifted.

4. On 9 March 2021, the Prosecution disclosed to the Defence two packages of evidence consisting of 63 items (827 pages). These items are in Pre-Confirmation INCRIM packages 27 and 28. Pre-Confirmation INCRIM package 27 contains 27 Arabic translations of previously disclosed witness statements. Pre-Confirmation INCRIM package 28 contains 36 items related to witness DAR-OTP-P-0032.

5. On 12 March 2021, the Prosecution disclosed to the Defence four packages of evidence consisting of 690 items (2,057 pages):

- Pre-Confirmation INCRIM package 29: contains 29 items (53 pages);
- Pre-Confirmation INCRIM package 30: contains 29 items (703 pages);
- Pre-Confirmation INCRIM package 31: contains 51 items (704 pages); and
- Pre-Confirmation Rule 77 package 16: contains 581 items (597 pages).

6. The Prosecution informs the Chamber that Pre-Confirmation INCRIM packages 29, 30 and 31 contain 109 items related to five witnesses (DAR-OTP-P-0003, DAR-

OTP-P-0004, DAR-OTP-P-0070, DAR-OTP-P-0112 and DAR-OTP-P-0140) whose evidence was 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. Pre-Confirmation Rule 77 package 16 contains items related to witness DAR-OTP-P-0019.

7. In addition, on the same date the Prosecution also disclosed and re-issued:

- Pre-Confirmation Image Update package 2: containing 1 item (29 pages). This is the statement of witness DAR-OTP-P-0736. The Prosecution re-disclosed it with additional redactions applied to the name of a staff member;
- Pre-Confirmation Metadata Update package 6: containing 5 items (41 pages). The Prosecution re-issued the correct name of a witness in the metadata fields (Source ID and Chain of Custody notes);
- Pre-Confirmation Metadata Update package 7: containing 5 items (25 pages). The Prosecution re-issued the metadata field ICC-02/05-01/20 Related to Witness for these items.¹

8. On 15 March 2021, the Prosecution disclosed to the Defence three packages of evidence consisting of 287 items (1,851 pages):

- Pre-Confirmation INCRIM package 32: contains 60 items (814 pages);
- Pre-Confirmation INCRIM package 33: contains 94 items (193 pages); and
- Pre-Confirmation Rule 77 package 17: contains 133 items (844 pages).

9. The Prosecution informs the Chamber that Pre-Confirmation INCRIM packages 32 and 32 and Pre-Confirmation Rule 77 package 17 contain items related to the witnesses whose evidence was 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.

¹ Since these items have been previously disclosed the Prosecution will not annex them to this filing.

10. The standard redactions applied to the disclosed items are minimal and are applied according to the procedure for exceptions to disclosure that was adopted by the Single Judge on 17 August 2020.²



James Stewart
Deputy Prosecutor

Dated this 16th day of March 2021

At The Hague, The Netherlands

² ICC-02/05-01/20-116, para. 12.