



Original: English

No. ICC-02/05-01/20

Date: 17 March 2021

PRE-TRIAL CHAMBER II

Before:

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

SITUATION IN DARFUR, SUDAN

IN THE CASE OF

THE PROSECUTOR v. ALI MUHAMMAD ALI ABD-AL-RAHMAN

(‘ALI KUSHAYB’)

Public

Decision on the designation of a Single Judge

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Julian Nicholls

Counsel for the Defence

Mr Cyril Laucci

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
for Participation/Reparations**

**The Office of Public Counsel
for Victims**

Ms Paolina Massidda

**The Office of Public Counsel
for the Defence**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Mr Harry Tjonk

**Victims Participation and
Reparations Section**

Mr Philipp Ambach

Other

PRE-TRIAL CHAMBER II (the ‘Chamber’) of the International Criminal Court (the ‘Court’) issues this Decision on the designation of a Single Judge.

1. On 27 April 2007, Pre-Trial Chamber I granted the Prosecutor’s application under article 58(7) of the Rome Statute (the ‘Statute’)¹ and decided² to issue a warrant of arrest against Mr Ali Muhammad Ali Abd-Al-Rahman (‘Mr Abd-Al-Rahman’),³ for crimes against humanity and war crimes allegedly committed in the localities of Kodoom, Bindisi, Mukjar, Arawala and their surrounding areas in Darfur, Sudan, between August 2003 and March 2004.
2. On 16 January 2018, Pre-Trial Chamber II, in its previous composition, granted the Prosecutor’s application to amend the first warrant of arrest pursuant to article 58(6) of the Statute,⁴ by issuing a second warrant of arrest against Mr Abd-Al-Rahman,⁵ for crimes against humanity and war crimes allegedly committed in the locality of Deleig and surrounding areas in Darfur, Sudan, between on or about 5 to 7 March 2004.
3. On 9 June 2020, Mr Abd-Al-Rahman surrendered himself and was transferred to the Court’s Detention Centre and Judge Rosario Salvatore Aitala was designated by the Chamber as Single Judge responsible for carrying out the functions of the Chamber in the case, until otherwise decided.⁶
4. On 15 June 2020, Mr Abd-Al-Rahman made his first appearance before the Single Judge. The date for the commencement of the confirmation of charges hearing,

¹ Prosecutor’s Application under Article 58 (7), 27 February 2007, ICC-02/05-55-US-Exp (public redacted version notified on the same day, ICC-02/05-56).

² Decision on the Prosecution Application under Article 58(7) of the Statute, ICC-02/05-01/07-1-Corr.

³ Warrant of Arrest for Ali Kushayb, ICC-02/05-01/07-3-Corr.

⁴ Prosecution’s application pursuant to article 58(6) of the Rome Statute to amend the warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”) by adding new crimes, 3 November 2017, ICC-02/05-01/07-73-Secret-Exp (confidential redacted and public redacted versions notified on 26 June 2020, ICC-02/05-01/20-6-Conf-Red and ICC-02/05-01/20-6-Red2).

⁵ Second warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”), ICC-02/05-01/07-74-Secret-Exp (public redacted version notified on 11 June 2020, ICC-02/05-01/07-74-Red).

⁶ Decision on the designation of a Single Judge, 9 June 2020 (notified on 10 June 2020), ICC-02/05-01/07-80.

initially set for 7 December 2020,⁷ was subsequently postponed first to 22 February 2021⁸ and then to 24 May 2021,⁹ upon request by the Prosecutor.¹⁰

5. On 16 March 2021, the Presidency of the Court recomposed the Chambers and assigned the following situations and cases therein to the Chamber: Central African Republic I; Central African Republic II; Republic of Uganda; Darfur, Republic of the Sudan; Republic of Kenya; Republic of Côte d’Ivoire; Islamic Republic of Afghanistan; and Republic of Burundi.¹¹

6. On 16 March 2021, Judge Rosario Salvatore Aitala was elected as the Presiding Judge of the Chamber.¹²

7. The Chamber notes article 39(2)(b)(iii) of the Statute, which provides that ‘[t]he functions of the Pre-Trial Chamber shall be carried out either by three judges of the Pre-Trial Division or by a single judge of that division in accordance with the Statute and the Rules of Procedure and Evidence’.

8. According to article 57(2)(b) of the Statute, in all cases other than those listed in article 57(2)(a) of the Statute, ‘a single judge of the Pre-Trial Chamber may exercise the functions provided for in the Statute, unless otherwise provided for in the Rules of Procedure and Evidence or by a majority of the Pre-Trial Chamber’.

9. The Chamber further notes rule 7(1) of the Rules of Procedure and Evidence and regulation 47 of the Regulations of the Court, pursuant to which the designation of a single judge shall be based on objective criteria, including ‘seniority of age, criminal trial experience’ and ‘consideration of the issues involved and the circumstances of the proceedings before the Chamber, as well as the distribution of work within the Chamber and the proper management and efficiency in the handling of cases’.

⁷ Transcript of hearing, ICC-02/05-01/20-T-001-ENG.

⁸ Decision on Prosecutor’s Request for Postponement of the Confirmation Hearing and related deadlines, 2 November 2020, ICC-02/05-01/20-196.

⁹ Decision on the Prosecutor’s Second Request to Postpone the Confirmation Hearing and Requests for Variation of Disclosure Related Time Limits, 18 December 2020, ICC-02/05-01/20-238.

¹⁰ Corrected Version of “Prosecution’s request to postpone the confirmation hearing”, 16 September 2020, ICC-02/05-01/20-157-Conf-Exp-Corr (confidential and public redacted versions notified on the same day; ICC-02/05-01/20-157-Conf-Red-Corr, ICC-02/05-01/20-157-Corr-Red); Prosecution’s second request to postpone the confirmation hearing and related deadlines, 3 December 2020, ICC-02/05-01/20-218-Conf (public redacted version notified on 4 December 2020; ICC-02/05-01/20-218-Red).

¹¹ ICC-02/05-01/20-303, p. 9.

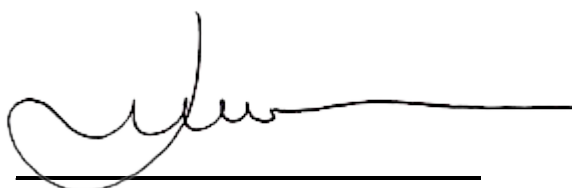
¹² ICC-02/05-01/20-306.

10. In light of the criteria contained in the aforementioned provisions and, in particular, the need to ensure the proper management, expeditiousness and efficiency of the proceedings, the Chamber considers it appropriate to designate Judge Rosario Salvatore Aitala as Single Judge responsible for carrying out the functions of the Chamber in the present case, subject to article 57(2)(a) of the Statute until otherwise decided.

FOR THESE REASONS, THE CHAMBER HEREBY

DESIGNATES Judge Rosario Salvatore Aitala as Single Judge responsible for carrying out the functions of the Chamber, subject to article 57(2)(a) of the Statute, in the present case until otherwise decided.

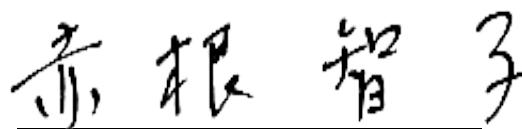
Done in both English and French, the English version being authoritative.



**Judge Rosario Salvatore Aitala,
Presiding Judge**



Judge Antoine Kesia-Mbe Mindua



Judge Tomoko Akane

Dated this Wednesday, 17 March 2021

At The Hague, The Netherlands