



Original: **English**

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

Date: **21 July 2021**

THE PRESIDENCY

Before: Judge Piotr Hofmański, President
Judge Luz del Carmen Ibáñez Carranza, First Vice-President
Judge Antoine Kesia-Mbe Mindua, Second Vice-President

SITUATION IN DAFUR, SUDAN

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

Public

**Decision constituting Trial Chamber I and referring to it the case of
*The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')***

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

Mr Karim A. A. Khan
Mr James Stewart

Counsel for Mr Ali Muhammad Ali

Abd-Al-Rahman
Mr Cyril Laucci

Legal representatives of the Victims

Ms Amal Clooney
Mr Nasser Mohamed Amin Abdalla

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

Ms Paolina Massidda

Amicus Curiae**States' Representatives****REGISTRY****Registrar**

Mr Peter Lewis

Counsel Support Section**Detention Section****Victims and Witnesses Unit****Victims Participation and Reparations Section**

Other
Trial Chamber I

THE PRESIDENCY of the International Criminal Court (the ‘Court’);

NOTING article 61(11) of the Statute, pursuant to which the Presidency shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings, and Rule 130 of the Rules of Procedure and Evidence (the ‘Rules’) whereby the Presidency shall refer the case to a Trial Chamber and transmit to it the Decision Confirming the Charges and the record of the proceedings of the Pre-Trial Chamber;

NOTING the decision of Pre-Trial Chamber II dated 9 July 2021 which, *inter alia*, confirmed, pursuant to article 61(7)(a) of the Statute, charges presented by the Prosecutor against Mr Ali Muhammad Ali Abd-Al-Rahman in the case *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, to the extent specified at pages 50 to 70 of that decision, and committed him to a Trial Chamber for trial on the charges as confirmed (the ‘Decision Confirming the Charges’);¹

NOTING that the Decision Confirming the Charges ordered that the record of the proceedings be immediately transmitted to the Presidency;²

NOTING that the record of the proceedings before Pre-Trial Chamber II and the Decision Confirming the Charges were formally transmitted to the Presidency by the Registrar on 16 July 2021, in accordance with rule 129 of the Rules;³

NOTING the Presidency’s previous decision assigning judges to divisions and recomposing Chambers, in which it, *inter alia*, dissolved Trial Chamber I;⁴

NOTING further that when composing chambers, the Presidency must balance a number of factors to the extent necessary and possible, and that the guiding principles informing these

¹ Pre-Trial Chamber II, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’), 9 July 2021, ICC-02/05-01/20-433.

² *Ibid.*, paras 115-116, p. 71.

³ Registrar, Transmission to the Presidency of the record of the proceedings, including the Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al Rahman (‘Ali Kushayb’), 16 July 2021, ICC-02/05-01/20-439.

⁴ Presidency, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, Decision assigning judges to divisions and recomposing Chambers, 16 March 2021, ICC-02/05-01/20-303, p. 7.

factors are the applicable statutory framework and the need to ensure the efficient management of the Court's workload, including in view of the Court's long-term needs;

CONSIDERING the current and anticipated overall judicial workload of the Court and the necessity to ensure sound management of the same, the need to expedite proceedings, the workload and individual concerns of the respective judges, their previous involvement in cases, as well as the experience and expertise of each judge;

HEREBY CONSTITUTES Trial Chamber I as follows:

Judge Reine Alapini-Gansou

Judge Joanna Korner

Judge Althea Violet Alexis-Windsor;

DECIDES to call Judge Joanna Korner and Judge Althea Violet Alexis-Windsor to serve on a full-time basis, in accordance with article 35(3) of the Statute, in view of their extensive experience as trial judges, noting that the existing judicial resources at the Court are insufficient to meet the needs at trial level of the present case;

DECIDES to refer the case of *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')* to Trial Chamber I;

ORDERS the Registrar, pursuant to rule 130 of the Rules, to transmit the full record of the proceedings in the above mentioned case to Trial Chamber I, including the Decision Confirming the Charges and to notify the present decision to the relevant parties and participants in the case.

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

A handwritten signature in black ink, consisting of a large, stylized 'L' and 'C' intertwined, with a horizontal line crossing through the middle. The signature is positioned above a solid horizontal line.

Judge Luz del Carmen Ibáñez Carranza
Acting President

Dated this 21 July 2021

At The Hague, The Netherlands