

Situation in Darfur, Sudan

Update: June 2020

ICC-02/05

First appearance of Ali Muhammad Ali Abd-Al-Rahman at the ICC 15 June 2020

WHO IS MR ABD-AL-RAHMAN AND WHAT IS HE SUSPECTED OF?

On 9 June 2020, Ali Muhammad Ali Abd-Al-Rahman was [transferred to the ICC's custody](#) after surrendering himself voluntarily in the Central African Republic.

Ali Muhammad Ali Abd-Al-Rahman is a Sudanese national born approximately in 1957. He was allegedly one of the most senior leaders in the tribal hierarchy in the Wadi Salih locality and member of the Popular Defence Forces (PDF) and allegedly commanded thousands of Janjaweed militia from on or about August 2003 until on or about March 2004. He is alleged to have implemented the counter-insurgency strategy of the Government of Sudan that also resulted in the commission of war crimes and crimes against humanity in Darfur, Sudan. Mr Abd-Al-Rahman is perceived to be the mediator between the leaders of the Janjaweed militia in Wadi Salih and the Government of Sudan. He is also alleged to have enlisted fighters, armed, funded and provided food and other supplies to the Janjaweed militia under his command, thereby intentionally contributing to the above-mentioned crimes. Mr Abd-Al-Rahman is alleged to have personally participated in some of the attacks against civilians namely in the towns of Kodoom, Bindist, Mukjar and Arawala between August 2003 and March 2004, where the killing of civilians, rape, torture and other cruel treatments occurred, therefore he allegedly committed, jointly with others, the alleged crimes.

On 27 April 2007, ICC Pre-Trial Chamber I issued two warrants of arrest, against Ali Muhammad Ali Abd-Al-Rahman and Ahmad Muhammad Harun (not in ICC custody). Pre-Trial Chamber I considered that there are reasonable grounds to believe that, (i) from about August 2002, an armed conflict took place between the Government of Sudan including combatants from the Sudan People's Armed Forces (the Sudanese Armed Forces) and the Popular Defence Force (PDF) along with the Janjaweed militia against organised rebel groups, including the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) in Darfur, Sudan; (ii) in 2003 and 2004, that the Sudanese Armed Forces and the Janjaweed militia, acting together as part of the counter-insurgency campaign, carried out several attacks, of a systematic or widespread nature, on the towns of Kodoom, Bindisi, Mukjar, Arawala and surrounding areas. In the above mentioned towns criminal acts were allegedly committed against civilians primarily from the Fur, Zaghawa and Masalit populations, such as murders of civilians, rapes and outrages upon the personal dignity of women and girls, persecution, forcible transfers, imprisonment or severe deprivation of liberty, and attacks intentionally directed against the above-mentioned populations.

The [arrest warrant](#) delivered on 27 April 2007 against Mr Abd-Al-Rahman lists 50 counts on the basis of his individual criminal responsibility including:

- Twenty-two counts of crimes against humanity (murder; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; persecution; rape; inhumane acts of inflicting serious bodily injury and suffering); and
- Twenty-eight counts of war crimes (murder, violence to life and person; outrage upon personal dignity in particular humiliating and degrading treatment; intentionally directing an attack against a civilian population; pillaging; rape; destroying or seizing the property).

On 11 June 2020, Pre-Trial Chamber II reclassified as public [a second warrant of arrest](#) against Mr Abd-Al-Rahman adding three new charges of war crimes (murder) and crimes against humanity (murder and other inhumane acts) allegedly committed in Deleig and surrounding areas between on or about 5 to 7 March 2004.

On 15 June 2020, the case of Mr Ali Muhammad Ali Abd-Al-Rahman was severed from the case of Mr Ahmad Muhammad Harun since Mr Harun has not yet been surrendered to the Court.

WHAT HAPPENED AFTER MR ABD-AL-RAHMAN'S ARRIVAL AT THE ICC DETENTION CENTRE?

Once a suspect is surrendered to ICC's custody, the Court ensures that the person receives a copy of the warrant of arrest in a language which he fully understands and speaks. Within a reasonable time after his arrival at the Detention Unit of the ICC, the Pre-Trial Chamber will hold an initial appearance hearing to verify the identity of the suspect and ensure that he was clearly informed of the charges against him and his rights under the Rome Statute.

WHAT IS AN INITIAL APPEARANCE HEARING?

The suspect's first appearance before the Court takes place shortly after his arrival in The Hague. The initial appearance of Mr Abd–Al-Rahman is scheduled for 15 June 2020 before the single judge Rosario Salvatore Aitala. During the first appearance, the single judge confirms the identity of the suspect, ensures that the suspect understands the charges, confirms that language in which the proceedings should be conducted and may set a date to begin the confirmation of charges hearing. From this moment, the suspect will enjoy rights as recognised in the Rome Statute, including the right to have adequate time and facilities for the preparation of his or her Defence and to have the assistance of a Counsel, without payment if the person lacks sufficient means to pay for it.

WHAT WILL HAPPEN AFTER THE INITIAL APPEARANCE HEARING TAKES PLACE?

The opening of the confirmation of charges hearing was provisionally scheduled for 7 December 2020. After the initial appearance hearing, the Pre-Trial Chamber will start the process leading to the confirmation of charges hearing. This process may take several months, depending on the complexity of the case, and also on the challenges which may arise during this period. After the initial appearance, the process of disclosure of evidence will start. During this process, the Prosecutor will have to provide to the Defence teams the evidence she has collected during his investigation and on which she wants to rely for the confirmation of charges hearings. As indicated by the Rome Statute, the Prosecutor also has a duty to disclose exonerating information or materials to a suspect which in any way tend to suggest his innocence or mitigate his or her guilt, or which may affect the credibility of the Prosecution's evidence.

In addition, the Rome Statute contains provisions which enable victims to participate in all stages of the proceedings before the ICC. Victims can present their views and observations before the Court. The judges will give directions as to the timing and manner of the participation of victims at the confirmation of charges stage.

At the confirmation of charges hearing – which is not a trial, but a pre-trial hearing – the Prosecution must present sufficient evidence for the case to go to trial. The suspect's defence may object to the charges, challenge the Prosecution's evidence and also present evidence.

WHAT RIGHTS DO SUSPECTS HAVE?

Suspects before the ICC are presumed innocent. Unless exempted by the Judges, they are present in the courtroom during the trial, and they have a right to a public, fair and impartial hearing of their case. To this end, a series of guarantees are set out in the Court's legal documents, including, to mention a few:

- to be defended by the counsel (lawyer) of their choice, present evidence and witnesses of their own and to use a language which they fully understand and speak;
- to be informed in detail of the charges in a language which they fully understand and speak;
- to have adequate time and facilities for the preparation of the defence and to communicate freely and in confidence with counsel;
- to be tried without undue delay;
- not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
- to have the Prosecutor disclose to the defence evidence in his possession or control which he believes shows or tends to show the innocence of the suspects or accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence.

WHAT ARE THE CONDITIONS OF DETENTION AT THE ICC DETENTION CENTRE?

The ICC Detention Centre is located within a Dutch prison complex in Scheveningen - on the outskirts of The Hague, in the Netherlands. It functions to hold in safe, secure and humane custody those persons detained under the authority of the ICC. The Detention Centre operates in conformity with the highest international human rights standards for the treatment of detainees, such as the United Nations Standard Minimum Rules. An independent inspecting authority conducts regular and unannounced inspections of the Centre in order to examine how detainees are being held and treated. Detained persons are presumed innocent until proven guilty. If convicted of crimes under the ICC's jurisdiction, they do not serve their sentences at the ICC Detention Centre as it is not a facility made for the purposes of managing a regime of convicted prisoners; they are transferred to a prison outside of The Netherlands to serve their time, subject to an agreement between the ICC and the State of enforcement.

WHO ARE THE JUDGES SITTING IN THIS CASE?

Pre-Trial Chamber II is composed of Judges Antoine Kesia-Mbe Mindua (presiding), Tomoko Akane, and Rosario Salvatore Aitala. The ICC Judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. The Judges are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and the law of human rights.

WHY IS THE ICC INVESTIGATING THE SITUATION IN DARFUR, SUDAN?

Using its authority under the Rome Statute, the United Nations Security Council referred the situation in Darfur since 1 July 2002 to the ICC Prosecutor in resolution 1593 on 31 March 2005. Following the referral from the United Nations Security Council, the Prosecutor received the conclusion of the International Commission of Inquiry on Darfur. In addition, the Office of the Prosecutor requested information from a variety of sources, leading to the collection of thousands of documents. The Prosecutor concluded that the statutory requirements for initiating an investigation were satisfied and decided to open the investigation on 6 June 2005. Five ICC warrants of arrest are still pending in the context of this situation against MM Harun, Al Bashir, Banda, and Hussein.