



Original: English

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

Date: 12 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**

**Prosecution's request for an extension of the page limit for the Document  
Containing the Charges**

**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**

Ms Paolina Massidda

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. INTRODUCTION

1. The Prosecution requests that the page limit for the document containing the charges (the “DCC”) be extended from 30 to 45 pages, pursuant to regulation 37(2) of the Regulations of the Court (“Regulations”).

## II. SUBMISSIONS

2. Under regulation 37(2) of the Regulations, the Chamber may “at the request of a participant, extend the page limit in exceptional circumstances.” The Prosecution respectfully submits that “exceptional circumstances” exist in support of this request.

3. First, the Prosecution aims to file a DCC that fully complies with the instructions of the Pre-Trial Chamber II (“Chamber”) on the structure and content of the DCC, including details surrounding alleged victims. The Chamber instructed the Prosecution that the DCC should pinpoint “the places, times and (approximate) number of victims corresponding to each charge [...] and no footnotes containing cross-references.”<sup>1</sup> An extension of the page limit is necessary in order for the DCC to provide the comprehensive and necessary detail, as instructed.

4. Second, for specificity purposes, the Prosecution intends for the DCC to be comprehensive in its presentation and description of events relating to the crimes alleged. The DCC is structured in a narrative style, detailing various major incidents, each with multiple charges and corresponding modes of responsibility. For each crime and each mode of criminal responsibility, the underlying legal and factual elements are specifically addressed in detail.

5. The Prosecution has consulted with the Defence regarding this request. The Defence has no objection to the request for the 15 page extension from 30-45 pages.

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<sup>1</sup> Emails from PTCII: ICC-02/05-01/20 - Single Judge’s reminder and clarification as regards the forthcoming document containing the charges and instruction to provide a map of the locations relevant to the charges, 26 November 2020 at 16:57 and 26 February 2021 at 11:31am.

6. The requested page extension will afford the Defence greater clarity regarding notice of the charges and give the Chamber, victims and general public a better understanding of the case.

7. Lastly, as directed by the Chamber,<sup>2</sup> the Prosecution modelled its DCC on the one submitted in the *Ongwen* case and notes that the *Ongwen* DCC exceeded the standard page limit by 15 pages.<sup>3</sup>

8. The Prosecution is mindful that page limits are imposed on parties' submissions to make them present their arguments in a concise and coherent manner.<sup>4</sup> However, the 15 page extension sought by the Prosecution is for the purpose of elucidating the material facts while still providing a concise and clear DCC.

### III. RELIEF REQUESTED

9. For the above reasons, the Prosecution requests that the Chamber grant an extension of the page limit for the DCC from 30 to 45 pages, pursuant to regulation 37(2) of the Regulations.



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**James Stewart**  
**Deputy Prosecutor**

Dated this 12 day of March 2021

At The Hague, The Netherlands

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<sup>2</sup> ICC-02/05-01/20-196, para. 41.

<sup>3</sup> ICC-02/04-01/15-375-AnxA-Red, Document Containing the Charges is 48 pages.

<sup>4</sup> ICC-01/12-01/18-310-tENG, para. 27