



Original: English

No. ICC-02/05-01/07

Date: 11 June 2020

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

SITUATION IN DARFUR, SUDAN

IN THE CASE OF

***THE PROSECUTOR v. AHMAD MUHAMMAD HARUN ('AHMAD HARUN') and
ALI MUHAMMAD ALI ABD-AL-RAHMAN ('ALI KUSHAYB')***

Public

Decision on the convening of a hearing for the initial appearance of Mr Ali Kushayb

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 James Stewart

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

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

States Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

JUDGE ROSARIO SALVATORE AITALA, acting as Single Judge on behalf of Pre-Trial Chamber II of the International Criminal Court, issues this Decision on the convening of a hearing for the initial appearance of Mr Ali Kushayb.

1. On 31 March 2005, the United Nations Security Council referred the situation in Darfur, Sudan, since 1 July 2002 to the Prosecutor.¹
2. On 27 April 2007, Pre-Trial Chamber I decided to deliver a warrant of arrest for Mr Ali Kushayb,² which was issued on the same day,³ for crimes against humanity and war crimes allegedly committed in the localities of Kodoom, Bindisi, Mukjar, Arawala and their surrounding areas (Darfur, Sudan) between August 2003 and March 2004.
3. On 15 March 2012, the Presidency reassigned the situation in Darfur, Sudan, to Pre-Trial Chamber II,⁴ the current composition of which was decided on 16 March 2018.⁵
4. On 9 June 2020, Mr Ali Kushayb arrived at the Detention Centre of the Court. On the same day, Judge Rosario Salvatore Aitala was designated by the Chamber as Single Judge responsible for carrying out the functions of the Chamber in the present case until otherwise decided.⁶
5. On 11 June 2020, the Chamber filed a public redacted version of a second warrant of arrest against Mr Ali Kushayb⁷ for crimes against humanity and war crimes allegedly committed in the locality of Deleig and surrounding areas (Darfur, Sudan) between on or about 5 to 7 March 2004.
6. The Single Judge notes articles 60(1) and 67 of the Statute, rule 121(1) of the Rules of Procedure and Evidence (the ‘Rules’) and regulations 20(1) and 21 of the Regulations of the Court (the ‘Regulations’).

¹ S/RES/1593(2005).

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 Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d’Ivoire situations, ICC-02/05-01/07-65.

⁵ Decision assigning judges to divisions and recomposing Chambers, ICC-02/05-01/07-75.

⁶ Decision on the designation of a Single Judge, ICC-02/05-01/07-80.

⁷ Public redacted version of ‘Second warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)', 16 January 2018, ICC-02/05-01/07-74-Secret-Exp, ICC-02/05-01/07-74-Red.

7. In particular, according to article 60(1) of the Statute and rule 121(1) of the Rules, a person subject to a warrant of arrest under article 58 of the Statute ‘shall appear before the Pre-Trial Chamber’ and be informed of (i) the crimes he is alleged to have committed; (ii) his rights under the Statute; and (iii) the date for a hearing to confirm or to decline to confirm the charges.
8. The Single Judge considers it appropriate for the initial appearance of Mr Ali Kushayb to take place on Monday, 15 June 2020.
9. In light of the restrictions for accessing the Court building and the precautionary measures adopted and in place as a consequence of the current COVID-19 pandemic, attendance in the courtroom might be adapted as required and appropriate, including by way of establishing secure video-links.
10. The Single Judge further notes that, pursuant to regulation 21(1) of the Regulations, the publicity of hearings may extend beyond the courtroom and, accordingly, authorises video recording and the taking of photographs in the courtroom at the start of the initial appearance hearing for no longer than one minute and a half.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES to convene the hearing for the initial appearance of Mr Ali Kushayb on Monday, 15 June 2020, at 11:00 hours in courtroom III; and

AUTHORISES the Registrar to inform external applicants that, at the start of the initial appearance hearing and after all the parties and representatives of the Registry have taken their seats, video recording and the taking of photographs will be permitted for no longer than one minute and a half.

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

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a series of loops and a long horizontal stroke extending to the right.

Judge Rosario Salvatore Aitala
Single Judge

Dated this Thursday, 11 June 2020

At The Hague, The Netherlands