



Original: **English**

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

Date: **29 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  
with Confidential Annexes A-C**

**Prosecution’s notification of the disclosure of evidence  
between 19 and 29 March 2021**

**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**

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Mr Julian Nicholls

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**Legal Representatives of the Applicants**

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(Participation/Reparation)**

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**The Office of Public Counsel for the  
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**Amicus Curiae**

**REGISTRY**

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Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. INTRODUCTION

1. The Prosecution submits to the Single Judge Rosario Salvatore Aitala (“Single Judge”), acting for Pre-Trial Chamber II, this notification of the disclosure of evidence pursuant to articles 61(3)(b) and 67(2) of the Rome Statute and Rule 77.

## II. CLASSIFICATION

2. This filing is classified as public with confidential Annexes A-C. The Prosecution classifies Annexes A-C as confidential since they relate to *inter partes* disclosure and contain confidential information.

## III. SUBMISSIONS

3. On 19 March 2021, the Prosecution disclosed to the Defence five packages of evidence consisting of 392 items (3,834 pages):

- Pre-Confirmation INCRIM package 34: contains 13 items (124 pages);
- Pre-Confirmation INCRIM package 35: contains 30 items (664 pages);
- Pre-Confirmation INCRIM package 36: contains 36 items (340 pages);
- Pre-Confirmation Rule 77 package 18: contains 216 items (1,886 pages); and
- Pre-Confirmation Rule 77 package 19: contains 97 items (820 pages).

4. On 23 March 2021, the Prosecution disclosed to the Defence five packages of evidence consisting of 301 items (3,119 pages):

- Pre-Confirmation INCRIM package 37: contains 75 items (1,391 pages);
- Pre-Confirmation INCRIM package 38: contains 25 items (203 pages);
- Pre-Confirmation INCRIM package 39: contains 85 items (527 pages);
- Pre-Confirmation Rule 77 package 20: contains 40 items (320 pages);
- Pre-Confirmation Rule 77 package 21: contains 15 items (86 pages); and
- Pre-Confirmation Rule 77 package 22: contains 61 items (592 pages).

5. On 24 March 2021, the Prosecution disclosed to the Defence two packages of evidence consisting of 50 items (638 pages):

- Pre-Confirmation INCRIM package 40: contains 29 items (153 pages); and
- Pre-Confirmation INCRIM package 41: contains 21 items (485 pages).

6. On 25 March 2021, the Prosecution disclosed to the Defence eight packages of evidence consisting of 424 items (5,608 pages):

- Pre-Confirmation INCRIM package 42: contains 71 items (638 pages);
- Pre-Confirmation INCRIM package 43: contains 26 items (457 pages);
- Pre-Confirmation INCRIM package 44: contains 64 items (1,098 pages);
- Pre-Confirmation INCRIM package 45: contains 64 items (568 pages);
- Pre-Confirmation Rule 77 package 23: contains 39 items (475 pages);
- Pre-Confirmation Rule 77 package 24: contains 19 items (325 pages);
- Pre-Confirmation Rule 77 package 25: contains 27 items (552 pages); and
- Pre-Confirmation Rule 77 package 26: contains 114 items (1,495 pages).

7. On 26 March 2021, the Prosecution disclosed to the Defence four packages of evidence consisting of 131 items (1,375 pages):

- Pre-Confirmation INCRIM package 46: contains 25 items (273 pages);
- Pre-Confirmation INCRIM package 47: contains 37 items (232 pages);
- Pre-Confirmation INCRIM package 48: contains 33 items (429 pages); and
- Pre-Confirmation INCRIM package 49: contains 36 items (441 pages).

8. On 27 March 2021, the Prosecution disclosed to the Defence one package of evidence consisting of 38 items (351 pages):

- Pre-Confirmation INCRIM package 50: contains 38 items (351 pages).

9. On 28 March 2021, the Prosecution disclosed to the Defence ten packages of evidence consisting of 623 items (4,354 pages):

- Pre-Confirmation INCRIM package 51: contains 27 items (634 pages);
- Pre-Confirmation INCRIM package 52: contains 25 items (368 pages);
- Pre-Confirmation INCRIM package 53: contains 37 items (179 pages);
- Pre-Confirmation Rule 77 package 27: contains 199 items (1,320 pages);
- Pre-Confirmation Rule 77 package 28: contains 86 items (182 pages);
- Pre-Confirmation Rule 77 package 29: contains 16 items (115 pages);
- Pre-Confirmation Rule 77 package 30: contains 17 items (93 pages);
- Pre-Confirmation Rule 77 package 31: contains 163 items (818 pages);
- Pre-Confirmation Rule 77 package 32: contains 27 items (233 pages); and
- Pre-Confirmation PEXO package 3: contains 26 items (412 pages).

10. On 29 March 2021, the Prosecution disclosed to the Defence two packages of evidence consisting of 82 items (661 pages):

- Pre-Confirmation INCRIM package 54: contains 42 items (500 pages);
- Pre-Confirmation INCRIM package 55: contains 4 items (68 pages);
- Pre-Confirmation Rule 77 package 33: contains 40 items (161 pages).

11. In addition to these two packages, the Prosecution lifted F redactions previously applied to the metadata fields of 24 items which can be found in Pre-Confirmation Metadata Update package 8. The Prosecution re-issued the field ICC-02/05-01/20 Related to Witness of three items. They can be found in Pre-Confirmation Metadata Update package 9. These items are now linked to witness DAR-OTP-P-0120. Finally, the Prosecution re-disclosed the statement of witness DAR-OTP-P-0188 and its Arabic translation with lesser redactions. These two items can be found in Pre-Confirmation INCRIM package 55.

12. The standard redactions applied to the disclosed items are minimal and are applied according to the procedure for exceptions to disclosure that was adopted by the Single Judge on 17 August 2020.<sup>1</sup>

A handwritten signature in black ink that reads "James K. Stewart." The signature is written in a cursive, flowing style.

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

Dated this 29<sup>th</sup> day of March 2021  
At The Hague, The Netherlands

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<sup>1</sup> ICC-02/05-01/20-116, para. 12.