



Original: English

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

Date: 04 March 2021

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN DARFUR, SUDAN

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

**Public
with Public Annex A**

Joint Prosecution and Defence submission on agreed facts

Source: Office of the Prosecutor

Defence for Mr Ali Muhammad Ali Abd-Al-Rahman

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

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 8 December 2020, the Single Judge, acting for Pre-Trial Chamber II (“Chamber”), ordered the Prosecution and the Defence (collectively the “Parties”) to liaise with a view to reaching an agreement as to evidence pursuant to rule 69 of the Rules of Procedure and Evidence (“Order”)¹.
2. Pursuant to the Order, the Parties submitted a first progress report to the Chamber on 18 January 2021².
3. The Parties hereby notify the Chamber that they have reached an agreement on 17 facts related to the contextual elements of war crimes. The list of agreed facts is contained in public Annex A.
4. Pursuant to rule 69 of the Rules of Procedure and Evidence, it is requested that the Chamber consider these agreed facts as proven.
5. The Parties also inform the Chamber that they are continuing to work on identifying other topics for potential agreement, in particular the factual aspects of the contextual elements for crimes against humanity.³ Should any further agreements be reached, the Parties will promptly communicate them to the Chamber, notifying the Legal Representatives of the Victims, at the earliest opportunity.



James Stewart
Deputy Prosecutor



Cyril Lauei
Lead Counsel for the Defence of Mr
Ali Muhammad Ali Abd-Al-Rahman

Dated this 4th day of March 2021

At The Hague, The Netherlands.

¹ [ICC-02/05-01/20-226](#) (“Order”).

² [ICC-02/05-01/20-260](#).

³ Order, para. 12.