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

Date: 29 June 2021

**PRE-TRIAL CHAMBER II**

**Before: Judge Rosario Salvatore Aitala, Presiding Judge**

**SITUATION IN DARFUR, SUDAN**

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

**Public  
with Confidential Annex A**

**Prosecution's notification of the disclosure of evidence on 25 June 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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**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

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Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

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 the Pre-Trial Chamber II, this notification of the disclosure of evidence pursuant to article 61(3)(b) of the Rome Statute.

## II. CLASSIFICATION

2. The filing is classified as public with confidential Annex A. The Prosecution classifies Annex A as confidential since it relates to *inter partes* disclosure and contains confidential information.

## III. SUBMISSIONS

3. On 25 June 2021, the Prosecution disclosed to the Defence three packages of evidence consisting of 85 items (841 pages). Pre-Trial INCRIM package 65 contains 34 items related to Witnesses DAR-OTP-P-0034 and DAR-OTP-P-0087 which were re-disclosed with lesser redactions applied to the content and metadata fields. Pre-Trial INCRIM package 66 contains 10 translations of previously disclosed materials. Pre-Trial Rule 77 package 34 contains 41 items related to Witness DAR-OTP-P-0087. These items are newly disclosed. The reference to these items were redacted in the statement of Witness DAR-OTP-P-0087,<sup>1</sup> with the authorisation of the Single Judge.<sup>2</sup> At the Prosecution's request, the Single Judge also authorised the non-disclosure of one of these items.<sup>3</sup> Given that the identity of Witness DAR-OTP-P-0087 can now be disclosed, the redactions to references in his statement to these items have now been lifted. For completeness, and to assist the Defence in its overall assessment

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<sup>1</sup> With the exception of item DAR-OTP-0134-0004, which was provided to the Prosecution by Witness P-0087 during his interview but was not directly referenced in his statement, and item DAR-OTP-0118-0992, which is an annex to an item redacted from the statement (DAR-OTP-0118-0970).

<sup>2</sup> See ICC-02/05-01/20-386, paras. 30-34 and p. 15; ICC-02/05-01/20-287-Red2, paras. 1, 25, 57; ICC-02/05-01/20-287-Conf-Exp-Anx11.

<sup>3</sup> DAR-OTP-0118-0768 (Translation at DAR-OTP-0219-3465). See ICC-02/05-01/20-287-Red2, paras. 2, 11; ICC-02/05-01/20-393; ICC-02/05-01/20-400.

of Witness DAR-OTP-P-0087's evidence, the Prosecution disclosed the referenced items under rule 77.

4. In addition, the Prosecution re-issued the metadata fields of 128 items lifting redactions previously applied to the metadata. The reissuance of the metadata fields of these items can be found in the Pre-Trial Metadata Update package 12. The Prosecution also re-issued Confidentiality Level of four items in the Pre-Trial Metadata Update package 13.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

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**Karim A. A. Khan QC, Prosecutor**

Dated this 29<sup>th</sup> day of June 2021

At The Hague, The Netherlands