



Original: English

No.: ICC-02/05-01/20
Date: 3 November 2021

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

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

Public

Prosecution's proposed items for the agenda for the second status conference

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. The Prosecution provides the following suggested agenda items and related information for the second status conference.¹

II. SUGGESTED AGENDA ITEMS AND RELATED INFORMATION

A. Anticipated evidence

1) *Estimated number of witnesses to be called*

2. Since the first status conference,² the Prosecution has added 14 new witnesses to the provisional trial witness list.

2) *Use of expert witnesses*

3. Since the first status conference,³ the Prosecution has been in consultation with the Defence in relation to the joint instruction of an expert witness regarding the historical, political, social, economic and cultural background to the conflict in Darfur, including in particular from 2003 to 2004. The Prosecution intends to provide an update at the status conference.

3) *Use of rule 68 of the Rules*

4. At the second status conference, the Prosecution intends to raise some issues relating to its pending applications pursuant to rule 68 of the Rules of Procedure and Evidence.

5. In particular, the Prosecution intends to request the Chamber to extend the deadline for the submission of applications pursuant to rule 68 to 3 February 2022. The Defence does not oppose this request.

¹ *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, Order setting the date for the second status conference, 12 October 2021, ICC-02/05-01/20-483.

² *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, 8 September 2021, ICC-02/05-01/20-T-013-ENG.

³ *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, 8 September 2021, ICC-02/05-01/20-T-013-ENG.

B. Agreed facts under rule 69 of the Rules

6. Since the first status conference,⁴ the Prosecution and the Defence have agreed on 35 additional facts, which were recently submitted to the Chamber.⁵ The Prosecution and the Defence continue to work together with a view to agreeing on additional facts.

C. Update on the situation in Sudan and the impact on the Prosecution's activities

7. The Prosecution intends to update the Chamber on the recent developments in Sudan and their impact on the Prosecution's activities.

D. Trial Brief

8. At the second status conference, the Prosecution intends to request the Chamber to set a page limit of 200 pages for its Trial Brief. The Defence does not oppose this request.

9. In addition, the Prosecution intends to request the Chamber to set a deadline of 3 February 2022 for the submission of the Arabic translation of the Trial Brief. This date falls four weeks after the submission of the Trial Brief. The Defence does not oppose this deadline, which is consistent with the practice followed at the confirmation of charges stage.⁶

III. CONCLUSION

10. The Prosecution submits the above suggested agenda items and related information in preparation for the second status conference.

⁴ *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, 8 September 2021, ICC-02/05-01/20-T-013-ENG, p. 4, l. 19-21, p. 26, l. 7-10, p. 27, l. 7-14, p. 77, l. 21-25.

⁵ *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, Third Joint Prosecution and Defence Submission on Agreed facts, 2 November 2021, ICC-02/05-01/20-504.

⁶ The Prosecution submitted the Arabic translation of the Pre-Confirmation Brief and its annexes on 23 April 2021, one week after the submission of the Pre-Confirmation Brief on 16 April 2021. See *Prosecutor v. Abd-Al-Rahman ("Ali Kushayb")*, Prosecution's submission of Arabic translations of the Pre-Confirmation Brief and the List of Evidence, 23 April 2021, ICC-02/05-01/20-367+Anxs.

11. The Prosecution is grateful to the Defence for agreeing to the various requests referred to above.



Karim A. A. Khan QC

Prosecutor

Dated this 3rd day of November 2021

At The Hague, The Netherlands