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

Date: **26 November 2020**

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

**Prosecution's response to "Registry Observations on Aspects Related to the
Admission of Victims for Participation in the Proceedings"**

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

Mr James Stewart
Mr Julian Nicholls

Counsel for the Defence

Mr Cyril Laucci

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**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**

Mr Philipp Ambach

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) submits this filing in support of the recommendations contained in the “Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings,”¹ on 17 November 2020 to Pre-Trial Chamber II (“Chamber”) for its consideration.

II. SUBMISSIONS

A. Admission process for victims

2. The Prosecution takes note of the Registry’s recommendation that the Chamber adopts the victims’ admission process (“admission process”) used in cases of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*,² *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*,³ and *The Prosecutor v. Bosco Ntaganda*.⁴ The Registry states that the proposed admission process aims to respect the fair trial rights of the accused, enhance procedural efficiencies and maximise victims’ access to the Court.⁵

3. Given the advantages of the proposed admission process, as expressed and explained by the Registry, the Prosecution fully supports the Registry’s recommendation to the Chamber.

4. The Prosecution takes note of the recommendation in the Final Report of the Independent Expert Review (“IER”) of the International Criminal Court and the Rome Statute System, published on 30 September 2020 that the victim’s admission process should be complemented by effective outreach engagements with the

¹ ICC-02/05-01/20-203.

² ICC-01/12-01/18-37-tENG and ICC-01/12-01/18-661.

³ ICC-01/14-01/18-141 and ICC-01/14-01/18-459.

⁴ ICC-01/04-02/06-449.

⁵ ICC-02/05-01/20-203, para.7.

affected communities which inform them of their rights before the ICC and pathways to participating in proceedings.⁶ While the Prosecution support this recommendation from the IER, it recognises that the current challenge in accessing Sudan and the affected communities makes it difficult to establish and/or carry out outreach activities.

III. CONCLUSION

5. For the above reasons, the Prosecution supports the Registry's recommended admission process.



James Stewart
Deputy Prosecutor

Dated this 26th day of November 2020
At The Hague, The Netherlands

⁶ IER, para.849.