



Original: **English**

No.: ICC-02/05-01/09 OA

Date: 2 July 2009

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka
Judge Daniel David Ntanda Nsereko

**SITUATION IN DARFUR, SUDAN
IN THE CASE OF
THE PROSECUTOR *v.*
OMAR HASSAN AHMAD AL BASHIR (“OMAR AL BASHIR”)**

**URGENT
Public Document**

**Prosecution Request for an Extension of the Page Limit for its Document
in Support of Appeal against the “Decision on the Prosecution’s
Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir”**

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

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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Introduction

1. The Prosecution is appealing against the refusal of the Majority of Pre-Trial Chamber I to issue a warrant of arrest against Omar al-Bashir for three charges of genocide.¹

Procedural Background

2. On 14 July 2008, the Prosecution filed the “Prosecution’s Application under Article 58”.²
3. On 4 March 2009, the Chamber issued the “Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir” (“Decision”).³
4. On 10 March 2009, the Prosecution sought leave to appeal the Decision pursuant to Article 82(1)(d), in respect of three issues regarding the refusal of the Majority to issue the warrant of arrest in respect of the genocide counts.⁴
5. On 24 June 2009, the Pre-Trial Chamber granted leave to appeal one issue, regarding the proper standard for drawing inferences at the arrest warrant stage.⁵
6. Pursuant to Regulation 65(4), the Prosecution must file its Document in Support of Appeal on Monday, 6 July 2009.

Request for Extension of Page Limit

7. Pursuant to Regulation 37(2), a party may apply for an extension of the page limit in exceptional circumstances. The Prosecution submits that the circumstances of this appeal warrant such an extension.
8. The issue raised on this appeal is of particular importance to both the present case and the future operations of the Court, as it will affect the standard of proof for all Applications for Warrants of Arrest. The Prosecution therefore submits that it is in the interests of a proper determination of the issue, and the interests of justice, that the Prosecution be in a position to fully explore the issue. The Prosecution believes that it can best present its case in a document not exceeding 30 pages.

¹ ICC-02/05-01/09-3, 4 March 2009 (“the Decision”).

² ICC-02/05-151-US-Exp and ICC-02/05-151-US-Exp-Anxsl-89; Corrigendum ICC-02/05-151-US-Exp-Corr and Corrigendum ICC-02/05-151-US-Exp-Corr-Anxsl & 2. Public redacted version of the Prosecution Application, ICC-02/05-157-AnxA (hereinafter referred to as the “Prosecution Application”).

³ ICC-02/05-01/09-2-Conf and ICC-02/05-01/09-3.

⁴ ICC-02/05-01/09-6-Conf. A public redacted version of the Application for Leave to Appeal was filed on 13 March 2009 (ICC-02/05-01/09-12).

⁵ ICC-02/05-01/09-21 (“Decision Granting Leave to Appeal”).

9. In this regard, the appropriate standard by which the Pre-Trial Chamber shall determine the existence of reasonable grounds to believe a person intended to commit a crime within this Court's jurisdiction will be clarified by reviewing relevant international and national practice and doctrine. Moreover, this is a factually complex case. The Prosecution notes that it was granted a substantial extension of the page limit for the application which formed the basis for the impugned Decision.⁶ The Prosecution further notes that in this case there is a Dissenting Opinion to the Decision which the Prosecution must also address in the context of its appeal. The Prosecution accordingly submits that the additional pages will facilitate its task of presenting clear arguments and that those arguments will assist the Chamber in its role.

Relief Sought

10. The Prosecution submits that the reasons set out above constitute exceptional circumstances within the meaning of Regulation 37(2). While the Prosecution will endeavour to restrict its submissions to the minimum required for the proper determination of the issue before the Appeals Chamber, it respectfully requests an extension of 10 pages to the page limit for its document in support of appeal.



Luis Moreno-Ocampo,
Prosecutor

Dated this 2nd day of July 2009

At The Hague, The Netherlands

⁶ The public redacted version of the Application for Warrant of Arrest was 112 pages - ICC-02/05-157-AnxA 12-09-2008.