

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/05-01/09**
Date: **22 October 2010**

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Sylvia Steiner

**SITUATION IN DARFUR, THE SUDAN
IN THE CASE OF**

The Prosecutor v Omar Hassan Ahmad AL BASHIR ("Omar Al Bashir")

Public

**Prosecution notification of possible travel to a State Party in the case of *The
Prosecutor v Omar 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

Nick Kaufman

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

Registrar

Ms Silvana Arbia

Defence Support Section

Mr Didier Preira

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Introduction

1. The purpose of this filing is to notify the Chamber of the possibility of travel by Omar Al Bashir to Kenya for an Inter-governmental Authority for Development (IGAD) summit on 30 October.

Procedural Background

2. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.¹
3. On 4 March 2009, the Chamber issued an arrest warrant for Omar Al Bashir for seven counts of crimes against humanity and war crimes. In the decision, the Chamber found that “under Article 58(1) of the Statute, the arrest of Omar Al Bashir appears necessary at this stage to ensure (i) that he will appear before the Court; (ii) that he will not obstruct or endanger the ongoing investigation into the crimes for which he is allegedly responsible under the Statute; and (iii) that he will not continue with the commission of the above-mentioned crimes.”²
4. On 5 and 6 March 2009, the Registry submitted 3 filings to the Chamber, detailing transmission of the warrant of arrest and the requests for its implementation to

¹ ICC-02/05-157

² ICC-02/05-01/09-2-Conf

the Government of the Sudan³, to all Rome Statute States Parties⁴ and to the members of the UN Security Council.⁵

5. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.
6. The Registry submitted additional filings on 15 September 2010, on the transmission of the requests and supplementary requests for the arrest and surrender of Omar Hassan Ahmad Al Bashir to States Parties, Non-States Parties Members of the United Nations Security Council and the Republic of the Sudan.
7. On 27 August, the Registry submitted its report on the recent visits of Omar Al Bashir to the Republic of Chad and the Republic of Kenya.
8. On 27 August, the Chamber issued its Decision informing the United Nations Security Council and the Assembly of the States Parties to the Rome Statute about Omar Al-Bashir's presence in the territory of the Republic of Kenya, as well as its Decision informing the United Nations Security Council and the Assembly of the States Parties to the Rome Statute about Omar Al-Bashir's recent visit to the Republic of Chad

Reports of Bashir's possible travel to Kenya

9. During the September debate at the UN General Assembly, President Kibaki of Kenya called for a second IGAD special summit on Sudan in November in Kenya, to which Bashir could be invited.⁶

³ ICC-02/05-01/09-5 REQUEST TO THE REPUBLIC OF THE SUDAN FOR THE ARREST AND SURRENDER OF OMAR AL BASHIR

⁴ ICC-02/05-01/09-7 REQUEST TO ALL STATES PARTIES TO THE ROME STATUTE FOR THE ARREST AND SURRENDER OF OMAR AL BASHIR

⁵ ICC-02/05-01/09-8 REQUEST TO ALL UNITED NATIONS SECURITY COUNCIL MEMBERS THAT ARE NOT STATES PARTIES TO THE ROME STATUTE FOR THE ARREST AND SURRENDER OF OMAR AL BASHIR

10. A number of public statements and publications have suggested that Omar Al Bashir intends to visit Kenya to participate in the IGAD summit that would take place on 30 October.

Relief Sought

11. The Prosecution proposes that the Chamber request information from the Government of Kenya authorities about the alleged visit while communicating to said authorities the standing obligation to arrest persons indicted by the ICC.
12. For this purpose, the Chamber may wish to have resort to the procedure outlined in Regulation 109 of the Regulations of the Court in order to hear from the requested State.



Luis Moreno-Ocampo
Prosecutor

Dated this 22nd day of October 2010
At The Hague, the Netherlands