

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/09
Date: 25 October 2010

PRE-TRIAL CHAMBER I

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

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

THE PROSECUTOR V. OMAR HASSAN AHMAD AL BASHIR

**Public Document
URGENT**

Decision requesting observations from the Republic of Kenya

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy 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**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

PRE-TRIAL CHAMBER I (“Chamber”) of the International Criminal Court (“Court”);

BEING SEIZED of the “Prosecution notification of possible travel to a State Party in the case of *The Prosecutor v Omar al Bashir*”,¹ whereby the Prosecutor informs 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”;

NOTING the warrants of arrest against Omar Hassan Ahmad Al Bashir (“Omar Al Bashir”), President of Sudan, issued by the Chamber on 4 March 2009² and 12 July 2010,³ (“Warrants of arrest”) which are yet to be executed;

NOTING the “Request to all States Parties to the Rome Statute for the Arrest and Surrender of Omar Al Bashir” (“Request”) and the “Supplementary Request to all States Parties to the Rome Statute for the Arrest and Surrender of Omar Hassan Ahmad Al Bashir” (“Supplementary Request”), sent by the Registry to all States Parties to the Rome Statute (“Statute”) at the request of the Chamber on 6 March 2009⁴ and 21 July 2010⁵ respectively;

NOTING the “Decision informing the United Nations Security Council and the Assembly of States parties to the Rome Statute about Omar Al-Bashir’s presence in the territory of the Republic of the Kenya”;⁶

NOTING articles 86, 89 and 97 of the Statute;

¹ ICC-02/05-01/09-116.

² ICC-02/02-01/09-1.

³ ICC-02/05-01/09-95.

⁴ ICC-02/05-01/09-7.

⁵ ICC-02/05-01/09-96.

⁶ ICC-02/05-01/09-107.

CONSIDERING that the Republic of Kenya being a State Party to the Statute since 1 June 2005, is under the obligation, in accordance with articles 86 and 89 of the Statute, to enforce the Warrants of arrest;

CONSIDERING that Omar Al Bashir was previously present on the territory of the Republic of Kenya and that this country, although under the obligation to do so, failed to enforce the Warrants of arrest;

CONSIDERING that, in accordance with article 97 of the Statute, and as requested by the Court in the Request and the Supplementary Request sent to all States Parties, even if a State Party identifies problems which may impede or prevent the execution of a request for cooperation emanating from the Court, that State shall consult with the Court without delay in order to resolve the matter;

FOR THESE REASONS,

ORDERS

the Registrar to immediately transmit the present decision to the Republic of Kenya;

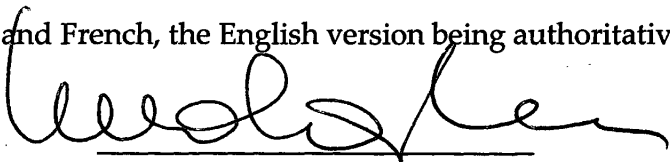
REQUESTS

the Republic of Kenya to inform the Chamber, no later than 29 October 2010, about any problem which would impede or prevent the arrest and surrender of Omar Al Bashir in case he visits the Republic of Kenya on 30 October 2010; and

REQUESTS

the Republic of Kenya to take any necessary measure to ensure that Omar Al Bashir, in the event that he visits the country, be arrested and surrendered to the Court in accordance with its obligations under the Statute.

Done in English and French, the English version being authoritative.

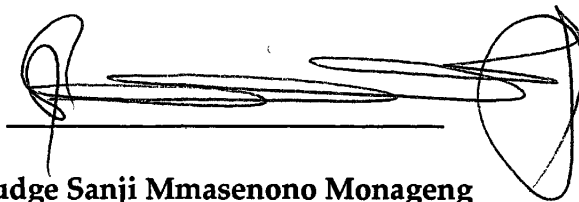


Judge Cuno Tarfusser

Presiding Judge



Judge Sylvia Steiner



Judge Sanji Mmasenono Monageng

Dated this Monday, 25 October 2010

At The Hague, The Netherlands