



Original: English

No.: ICC-02/05-01/09
Date: 14 February 2013

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

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

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

Public with Public Annex A Prosecution notification of possible travel in the case of <i>The Prosecutor v Omar Al Bashir</i>, pursuant to Article 97 of the Rome Statute
--

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

Ms Fatou Bensouda, Prosecutor
Mr Ade Omofade, Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Mr 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

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 on the possibility of travel by President Omar Al Bashir to the Republic of Chad and the State of Libya during the weekend of 16-17 February 2013.

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 the Government of the Sudan,³ to all Rome Statute States Parties⁴ and to the members of the UN Security Council.⁵

¹ ICC-02/05-151-US-Exp.

² ICC-02/05-01/09-2-Conf.

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.

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 22 October 2010,⁶ the Prosecution submitted a notification pursuant to Article 97 of the Rome Statute to the Chamber informing of Omar Al Bashir's possible travel to Kenya, and on 8 December 2010, a notification of his possible travel to the Republics of Senegal and Zambia.⁷

Reports of Omar Al Bashir's possible travel to the Republic of Chad and the State of Libya

8. Publications have suggested that Omar Al Bashir intends to visit the Republic of Chad and the State of Libya during the weekend of 16 – 17 February 2013. A news report published on the news website of the Sudan Tribune, which in turn cites the state-linked Sudanese Media Center (SMC), indicates that Omar Al Bashir might attend the Community of Sahel-Saharan (CEN-SAD) summit which is scheduled to take place in the Republic of Chad. The Report further indicates that he may then head to the State of Libya to attend celebrations commemorating the outbreak of the revolution that toppled the regime of late Libyan leader Muammar Gaddafi to be held over the coming weekend.⁸

⁶ICC-02/05-01/09-116.

⁷ICC-02/05-01/09-122. See also a further notification to the Chamber made on ICC-02/05-01/09-125.

⁸ Sudan Tribune Website - <http://www.sudantribune.com/spip.php?article45488> – last accessed on 13/02/2013. See Annex A to this filing.

9. Furthermore, the Prosecution understands that some States Parties are working bilaterally and within the framework of regional organizations to try to discourage the visits, and civil society organizations are endeavouring to ensure that the warrant will be executed, should Omar Al Bashir visit the Republic of Chad and Libya.
10. The Prosecution believes, in line with earlier submissions to the Chamber, that this information may be of interest to the Chamber. The Prosecution will submit any additional confirmation it receives of Omar Al Bashir's planned visits to the Republic of Chad and the State of Libya.

Relief Sought

11. The Prosecution proposes that the Chamber request information from the authorities of the Republic of Chad and the State of Libya about the alleged visits while communicating to said authorities their 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 States.



Fatou Bensouda

Prosecutor

Dated this 14th day of February 2013

At The Hague, the Netherlands