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

Date: 9 October 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 document
with Public Annex A**
Prosecution's urgent notification of travel 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

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Mr Herman von Hebel

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution notifies Pre-Trial Chamber II (the “Chamber”) of the possibility of travel by President Omar Al Bashir (“Omar Al Bashir”) to attend an extraordinary summit of the African Union at the AU Headquarters on 11 and 12 October 2013 in Addis Ababa, the Federal Democratic Republic of Ethiopia and subsequently to the Kingdom of Saudi Arabia on 13 October 2013.
2. The Prosecution requests that the Chamber seek information from the relevant authorities of the Federal Democratic Republic of Ethiopia and the Kingdom of Saudi Arabia regarding the above and take any measures the Chamber deems appropriate to secure execution of the pending warrants of arrest against Omar Al Bashir, including informing the U.N. Security Council of the impending travel.

Procedural Background

3. On 31 March 2005, the Security Council acting under Chapter VII of the Charter of the United Nations adopted Resolution 1593 (2005) referring the situation in Darfur to the Court. The Security Council decided in the context of cooperation with and assistance to the Court that “...while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully”.
4. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.¹ 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
5. 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

¹ ICC-02/05-157.

² ICC-02/05-01/09-3.

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

6. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁶ The Registry subsequently transmitted 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.

Reports of Omar Al Bashir's planned travel to the Federal Democratic Republic of Ethiopia and the Kingdom of Saudi Arabia

7. Several news reports indicate that Omar Al Bashir will attend the extraordinary summit on 11 and 12 October 2013 at the AU headquarters in Addis Ababa, the Federal Democratic Republic of Ethiopia and subsequently travel to the Kingdom of Saudi Arabia.⁷ The reports state that President Al Bashir will travel to the Federal Democratic Republic of Ethiopia on Friday October 11, 2013 attend both days of the extraordinary summit in Addis Ababa and subsequently travel to the Kingdom of Saudi Arabia on Sunday October 13.⁸
8. The Prosecution considers that the reports are credible and warrant intervention by the Chamber.

Relief Sought

9. The Prosecution requests that the Chamber take steps to ensure that the arrest warrants are executed. In particular, the Chamber should seek information from the relevant authorities of the Federal Democratic Republic of Ethiopia and the Kingdom of Saudi

³ ICC-02/05-01/09-5.

⁴ ICC-02/05-01/09-7.

⁵ ICC-02/05-01/09-8.

⁶ ICC-02/05-01/09-95.

⁷ <http://sudantribune.com/spip.php?article48362>. See further Annex A.

⁸ <http://news.sudanvisiondaily.com/details.html?rsnpid=227834>
<http://tigray.net/homepage/ethiopia-news/6598-sudanese-president-headed-to-ethiopia-for-au-summit-on-icc-and-saudi-arabia-for-pilgrimage-report.html>
<http://allafrica.com/stories/201310080827.html>
<http://sudaneseonline.org/cs/blogs/english/archive/2013/10/08/bashir-headed-to-ethiopia-for-au-summit-on-icc-and-saudi-arabia-for-pilgrimage-report.aspx>

Arabia regarding the possible visit of Omar Al Bashir and remind those authorities of the existence of warrants of arrest against Omar Al Bashir for serious crimes under the Statute. The Chamber should also consider reminding the relevant authorities of the Federal Democratic Republic of Ethiopia and the Kingdom of Saudi Arabia of the decision of the Security Council in Resolution 1593 (2005) urging “all States” to cooperate fully with the Court.⁹ Finally, the Chamber should consider informing the U.N. Security Council of the situation¹⁰ in order to enable the Council to take appropriate action.



Fatou Bensouda

Prosecutor

Dated this 9th day of October 2013

At The Hague, the Netherlands

⁹ See, for example ICC-02/05-01/09-162.

¹⁰ See in this context ICC-02/05-01/09-129.