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No.: ICC-02/05-01/09
Date: 17 February 2014

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")

**URGENT
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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Legal Representatives of Victims

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**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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States Representatives

Amicus Curiae

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution hereby notifies Pre-Trial Chamber II (“Chamber”) of the travel by President Omar Al Bashir (“Omar Al Bashir”) on 17 February 2014 to the Federal Democratic Republic of Ethiopia (“Ethiopia”).¹ The Prosecution proposes that the Chamber request information from the Ethiopian authorities regarding Omar Al Bashir’s visit 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 Omar Al Bashir’s travel.

Submission as an Urgent Filing

2. This notification is filed as “Urgent” because the relief being sought would be rendered moot if a decision is not made by the Chamber prior to Omar Al-Bashir’s departure from Ethiopia.

Procedural Background

¹ See Annex A. See further:

http://www.mobtada.com/news_details.php?ID=153330&%D8%A7%D9%84%D8%A8%D8%B4%D9%8A%D8%B1-%D9%8A%D8%AA%D9%88%D8%AC%D9%87-%D8%A5%D9%84%D9%89-%D8%A5%D8%AB%D9%8A%D9%88%D8%A8%D9%8A%D8%A7..-%D8%BA%D8%AF%D9%8B%D8%A7 (last accessed 17 February 2014);
<http://www.altaghyeer.info/ar/2013/news/3022/> (last accessed 17 February 2014);
http://neworientnews.com/news/fullnews.php?news_id=103565 (last accessed 17 February 2014).

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 it "...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.² 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."³

5. On 5 and 6 March 2009, the Registry submitted three filings to the Chamber, detailing transmission of the warrant of arrest and the requests for its implementation to the Government of the Sudan,⁴ to all Rome Statute States Parties⁵ and to the members of the UN Security Council.⁶

² ICC-02/05-157.

³ ICC-02/05-01/09-3.

⁴ ICC-02/05-01/09-5.

⁵ ICC-02/05-01/09-7.

⁶ ICC-02/05-01/09-8.

6. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁷ 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

7. According to media reports, Omar Al Bashir travelled to Ethiopia on 17 February 2014 in order to participate in the Ethiopian government's celebrations of "Liberation Day".⁸ The Prosecution considers that the reports are credible and warrant intervention by the Chamber.

Relief Sought

8. 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 regarding the visit of Omar Al Bashir and remind those authorities of the existence of warrants of arrest against Omar Al Bashir and of the Chamber's previous decisions regarding Omar Al-Bashir's travel to Ethiopia.⁹ The Chamber should also consider reminding the relevant authorities of the Republic of Ethiopia of the decision of the Security Council

⁷ ICC-02/05-01/09-95.

⁸ See Annex A.

⁹ ICC-02/05-01/09-164, ICC-02/05-01/09-180.

in Resolution 1593 (2005) urging “all States” to cooperate fully with the Court.¹⁰ Finally, the Chamber should consider informing the U.N. Security Council of the situation¹¹ in order to enable the Council to take appropriate action.



Fatou Bensouda
Prosecutor

Dated this 17th day of February 2014

At The Hague, The Netherlands

¹⁰ See, e.g., ICC-02/05-01/09-162.

¹¹ See ICC-02/05-01/09-129.