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

Date: 25 March 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")

**Public document
with Public Annex A**

**Prosecution's urgent notification of travel of Suspect Omar Hassan Ahmad Al –
Bashir in the case of *The Prosecutor v Omar Al Bashir* , 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

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States Representatives

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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 (the “Chamber”) of the planned travel by President Omar Al Bashir (“Omar Al Bashir”) to Um-Jaras, Chad, to address a forum of tribes living in the border areas. The forum will be held from 25 until 29 March 2014.

2. The Prosecution requests that the Chamber inform the authorities of the Republic of Chad about the alleged visit and remind them of their standing obligation to arrest persons for whom arrest warrants have been issued by the ICC. In this respect, the Prosecution notes the Chamber’s previous “Decision on the Non-compliance of the Republic of Chad with the Cooperation Requests Issued by the Court Regarding the Arrest and Surrender of Omar Hassan Ahmad Al-Bashir.”¹

3. In addition, the Chamber may wish to have resort to the procedure outlined in Article 87(7) of the Rome Statute and Regulation 109 of the Regulations of the Court in order to hear from the requested State.

Submission as an Urgent Filing

4. This notification is filed as “Urgent” because, according to news reports,² Omar Al Bashir is likely to travel to the Republic of Chad anytime between 25 and 29 March 2014, and the relief being sought would be rendered moot if a decision is not made by the Chamber prior to his departure from the Republic of Chad.

Procedural Background

¹ ICC-02/05-01/09-151.

² <https://www.radiodabanga.org/node/69635>. Last visited on 24 March 2014. See, Annex A.

5. On 31 March 2005, the Security Council, acting under Chapter VII of the Charter of the United Nations, adopted Resolution 1593 (2005), which referred 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".
6. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.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.⁴
7. 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,⁵ to all Rome Statute States Parties⁶ and to the members of the U.N. Security Council.⁷
8. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁸ The Registry subsequently transmitted requests and supplementary requests for the arrest and surrender of Omar Al Bashir to States Parties, Non-States Parties, members of the U.N. Security Council, and the Republic of the Sudan.
9. On 26 March 2013, the Chamber issued its "Decision on the Non-compliance of the Republic of Chad with the Cooperation Requests Issued by the Court

³ ICC-02/05-157.

⁴ ICC-02/05-01/09-3.

⁵ ICC-02/05-01/09-5.

⁶ ICC-02/05-01/09-7.

⁷ ICC-02/05-01/09-8.

⁸ ICC-02/05-01/09-95.

Regarding the Arrest and Surrender of Omar Hassan Ahmad Al-Bashir”,⁹ wherein it found that the Republic of Chad had “failed to comply with its obligations to consult with the Chamber in accordance with article 97 of the Statute on the problem(s) which have impeded the execution of the requests for arrest and surrender of Omar Al-Bashir during his visit; and [...] failed to cooperate with the Court by deliberately refusing to arrest and surrender Omar Al-Bashir, thus preventing the Court from exercising its functions and powers under the Statute”.¹⁰

10. On 10 May 2013, the Prosecution notified the Pre-Trial Chamber II of possible travel of the suspect Omar Al-Bashir to the Republic of Chad to attend a regional summit.¹¹

Reports of Omar Al Bashir’s planned travel to the Republic of Chad

11. News reports indicate that Omar Al Bashir will travel to Chad to address the second forum of tribes living in the border area between Sudan and Chad that will take place in Um-Jaras, Chad.¹² It is reported that the forum will be held from 25 to 29 March under the auspices of the Chadian president, Idris Deby.¹³
12. The Prosecution submits this information to the Chamber so that it may issue any relevant orders in order to ensure the arrest and surrender of Omar Al-Bashir. The Prosecution will submit forthwith any additional confirmation it receives of Omar Al Bashir’s planned visit to the Republic of Chad.

⁹ ICC-02/05-01/09-151.

¹⁰ *Ibid.*, page 11.

¹¹ ICC-02/05-01/09-155.

¹² <https://www.radiodabanga.org/node/69635>. Last visited on 24 March 2014. See, Annex A.

¹³ <http://www.sudantribune.com/spip.php?article50391>. Last visited on 24 March 2014. See, Annex A.

Relief Sought

13. 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 Republic of Chad 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 and its previous finding on non-cooperation against the Republic of Chad for failing to arrest and surrender Omar Al-Bashir. The Chamber should also remind the relevant authorities of the Republic of Chad of the decision of the Security Council in Resolution 1593 (2005) urging “all States” to cooperate fully with the Court.¹⁴ Finally, the Chamber should inform the U.N. Security Council of the situation¹⁵ in order to enable the Council to take appropriate action. For this purpose, the Chamber may wish to have resort to the procedure outlined in Article 87(7) of the Statute and Regulation 109 of the Regulations of the Court in order to hear from the requested State.



Fatou Bensouda
Prosecutor

Dated this 25th day of March 2014
At The Hague, the Netherlands

¹⁴ See, e.g., ICC-02/05-01/09-162, para.11.

¹⁵ See, e.g., ICC-02/05-01/09-129.