

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 April 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

Ms Fatou Bensouda, Prosecutor

Mr James Stewart, Deputy Prosecutor

Mr Julian Nicholls, Senior Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Mr Nick Kaufman

Ms Wanda M. Akin

Mr Raymond M. Brown

Legal Representatives of Applicants

**Unrepresented Applicants for
Participation/Reparation**

Unrepresented Victims

**The Office of Public Counsel for
Victims**

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

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 Suspect Omar Al Bashir (“Omar Al Bashir”) on 25 April 2014 to the Federal Democratic Republic of Ethiopia (“Ethiopia”),¹ in order to participate in the 3rd Forum on Security in Africa which was held from 26 to 27 April 2014, and his continued presence in Ethiopia for a four-day private visit to Bahr Dar state in Ethiopia.

2. The Prosecution requests that the Chamber inform the authorities of Ethiopia about the visit and, in light of United Nations Security Council Resolution 1593,² urge them to arrest Omar Al Bashir. The Prosecution submits that the Chamber should 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.

Submission as an Urgent Filing

3. 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.

¹ See Annex A. See further: <http://www.6kilo.com/sudans-bashir-to-visit-ethiopia-friday-security-forum/>; <http://www.turkishpress.com/news/402918/>; <http://addisababaonline.com/al-bashir-to-participate-in-african-security-forum-in-ethiopia/>; <http://suna-sd.net/suna/showNews/192900/en>. Last visited on 29 April 2014.

² Resolution 1593, adopted by the Security Council at its 5158th meeting, on 31 March 2005 S/RES/1593 (2005).

Procedural Background

4. On 31 March 2005, the United Nations 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 United Nations 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".³

5. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.⁴ On 4 March 2009, Pre-Trial Chamber I issued an arrest warrant for Omar Al Bashir for seven counts of crimes against humanity and war crimes. In the arrest warrant, Pre-Trial Chamber I 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."⁵

6. On 5 and 6 March 2009, the Registry submitted three filings detailing transmission of the warrant of arrest and the requests for its implementation to the Government of the Sudan,⁶ to all Rome Statute States Parties⁷ and to the members of the United Nations Security Council.⁸

³ Resolution 1593 (2005), adopted by the Security Council at its 5158th meeting, on 31 March 2005 S/RES/1593 (2005), Operative Paragraph 2.

⁴ ICC-02/05-157.

⁵ ICC-02/05-01/09-1.

⁶ ICC-02/05-01/09-5.

⁷ ICC-02/05-01/09-7.

⁸ ICC-02/05-01/09-8.

7. On 12 July 2010, Pre-Trial Chamber I issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁹ 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

8. This is the third time suspect Omar Al Bashir has travelled to Ethiopia since the arrest warrants against him were issued. On 10 October 2013 the Chamber ordered the Registrar to transmit to the authorities of Ethiopia the requests for arrest and surrender of Omar Al Bashir issued by the Registry on 6 March 2009 and 21 July 2010; or to request, in accordance with Article 92 of the Statute, the provisional arrest of Omar Al-Bashir.¹⁰ On 30 January 2014 the Chamber reminded the authorities of Ethiopia of those requests transmitted on 10 October 2013.¹¹

9. According to credible media reports, Omar Al Bashir has again travelled to Ethiopia on 25 April 2014 in order to participate in the 3rd Forum on Security in Africa which was held from 26 to 27 April 2014.¹² According to media reports, the Prosecution understands that following the conclusion of the conference, Omar Al Bashir started a four-day private visit to Bahr Dar state in Ethiopia.¹³ The Prosecution considers that the reports of Omar Al Bashir's continued presence in Ethiopia are credible and warrant urgent intervention by the Chamber.

⁹ ICC-02/05-01/09-95.

¹⁰ ICC-02/05-01/09-164.

¹¹ ICC-02/05-01/09-180.

¹² See Annex A.

¹³ <http://sudantribune.com/spip.php?article50798>. Last visited on 29 April 2014. For details see Annex A.

Relief Sought

10. The Prosecution requests that the Chamber take all necessary steps to ensure that the arrest warrants against Omar Al Bashir are executed. In particular, the Chamber should seek information from the relevant authorities of Ethiopia regarding the visit of Omar Al Bashir and remind the 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.¹⁴ The Chamber should also consider reminding the authorities of Ethiopia of the decision of the Security Council in Resolution 1593 (2005) urging "all States" to cooperate fully with the Court.¹⁵



Fatou Bensouda

Prosecutor

Dated this 29th day of April 2014

At The Hague, The Netherlands

¹⁴ ICC-02/05-01/09-164, ICC-02/05-01/09-180.

¹⁵ See, e.g., ICC-02/05-01/09-162.