

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 1 October 2014

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Cuno Tarfusser
Judge Christine Van den Wyngaert

**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 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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**Unrepresented Applicants for
Participation/Reparation**

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**The Office of Public Counsel for
Victims**

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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 Office of the Prosecutor (“Prosecution”) hereby notifies Pre-Trial Chamber II (“Chamber”) of the travel by Omar Al Bashir to the Kingdom of Saudi Arabia (“Saudi Arabia”). According to press reports,¹ Omar Al Bashir arrived in Saudi Arabia on Tuesday, 30 September, to perform the annual hajj pilgrimage.

2. The Prosecution requests the Chamber to inform the authorities of Saudi Arabia of the current visit and, in light of United Nations Security Council Resolution 1593,² and the arrest warrants issued by this Court, urge them to arrest Omar Al Bashir. The Prosecution submits that the Chamber should request information from the Saudi 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 urgent because, according to news reports,³ Omar Al Bashir arrived in Saudi Arabia yesterday, 30 September and the relief being sought would be rendered moot if a decision is not made by the Chamber prior to his departure from Saudi Arabia.

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

¹ See Annex A. See further: <http://www.sudantribune.com/spip.php?article52593> (last visited on 1 October 2014).

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

³ See Annex A. See further: <http://news.sudanvisiondaily.com/details.html?rsnpid=241130> (last visited on 1 October 2014).

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

5. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.⁵ 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 decision, 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."⁶

6. On 5 and 6 March 2009, the Registry submitted three filings to Pre-Trial Chamber I, detailing transmission of the warrant of arrest and the requests for its implementation to the Government of the Sudan,⁷ to all Rome Statute States Parties⁸ and to the members of the United Nations Security Council.⁹

7. On 12 July 2010, Pre-Trial Chamber I issued a second arrest warrant for Omar Al Bashir for three counts of genocide.¹⁰ The Registry subsequently transmitted requests and supplementary requests for the arrest and surrender of Omar Al Bashir to States Parties, Non-state Parties Members of the United Nations Security Council and the Republic of the Sudan.

⁴ Resolution 1593 (2005), adopted by the Security Council at its 5158th meeting, on 31 March 2005 S/RES/1593 (2005), Operative Paragraph 2.

⁵ ICC-02/05-157.

⁶ ICC-02/05-01/09-1.

⁷ ICC-02/05-01/09-5.

⁸ ICC-02/05-01/09-7.

⁹ ICC-02/05-01/09-8.

¹⁰ ICC-02/05-01/09-95.

8. On 10 October 2013, the Chamber, seised by the Prosecution regarding a similar visit of Omar Al Bashir to Saudi Arabia, invited “the competent authorities of [...] the Kingdom of Saudi Arabia to arrest Omar Hassan Ahmad Al Bashir and surrender him to the Court, in the event he enters their territory”.¹¹

Reports of Omar Al Bashir’s travel to Saudi Arabia

9. According to media reports,¹² Omar Al Bashir was received in the coastal city of Jeddah by the prince of Mecca province, Mashaal bin Abdullah bin Abdulaziz al-Saud on 30 September. The Saudi Press Agency news service reports that later that day, Omar Al Bashir met with Saudi Crown Prince Salman bin Abdulaziz, Deputy Premier and Minister of Defence.¹³

10. Members of the delegation included employees of the Sudanese embassy and Khartoum’s Hajj mission in Saudi Arabia.¹⁴ The Prosecution understands that this is the first meeting between the Sudanese leader and a senior Saudi official since 2012.¹⁵ The Prosecution considers that the reports of Omar Al Bashir’s trip to Saudi Arabia are credible and warrant urgent intervention by the Chamber.

¹¹ ICC-02/05-01/09-164, page 6; See also ICC-02/05-01/09-165.

¹² See Annex A. See further: <http://www.sudantribune.com/spip.php?article52593> (last visited on 1 October 2014).

¹³ See Annex A. See further: <http://www.spa.gov.sa/english/details.php?id=1279625> (last visited on 1 October 2014).

¹⁴ See Annex A. See further: <http://www.sudantribune.com/spip.php?article52593> (last visited on 1 October 2014).

¹⁵ See Annex A. See further: <http://www.sudantribune.com/spip.php?article52593> (last visited on 1 October 2014).

Relief Sought

11. 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 Saudi Arabia regarding the 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 Rome Statute. The Chamber should also remind the relevant authorities of Saudi Arabia of the decision of the Security Council in Resolution 1593 (2005) urging “all States” to cooperate fully with the Court.¹⁶



Fatou Bensouda
Prosecutor

Dated this 1st day of October 2014

At The Hague, The Netherlands

¹⁶ See, for example, ICC-02/05-01/09-164.