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No.: ICC-02/05-01/09
Date: 23 January 2015

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:

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**Victims Participation and
Reparations Section**

Other

Introduction

1. The Office of the Prosecutor (“Prosecution”) hereby notifies Pre-Trial Chamber II (“Chamber”) of the potential travel by suspect Omar Hassan Ahmad Al Bashir (“Omar Al Bashir”) to the Federal Democratic Republic of Ethiopia (“Ethiopia”) in order to attend the 24th Summit of the African Union, which will take place from 23 to 31 January 2015.¹

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 outstanding warrants of arrest against Omar Al Bashir.

Procedural Background

3. 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 “while recognizing that States not party to the Rome Statute have no obligation under the Statute, [it] urges all States and concerned regional and other international organizations to cooperate fully.”³

¹ See Annex A. See further: <http://www.africa-platform.org/events/24th-african-union-summit> (last visited on 21 January 2015).

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

³ *Ibid.*, Operative Paragraph 2.

4. 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. 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

5. 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 Sudan,⁶ to all Rome Statute States Parties,⁷ and to all United Nations Security Council members that are not States Parties to the Rome Statute.⁸

6. 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 Al Bashir to States Parties, Non-States Parties Members of the United Nations Security Council and the Republic of the Sudan.

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.

⁹ ICC-02/05-01/09-95.

Reports of Omar Al Bashir's planned travel to Ethiopia

7. This is the seventh time, to the Prosecution's knowledge, that Omar Al Bashir will be travelling to Ethiopia since the arrest warrants against him were issued.¹⁰ To date, the Chamber has issued six decisions in relation to the travels of Omar Al Bashir to Ethiopia.¹¹ In all its decisions the Chamber pointed out that "the Court has no enforcement mechanism and thus relies on the States' cooperation, without which it cannot fulfil its mandate and contribute to ending impunity."¹²

8. According to the news reports, Omar Al Bashir will lead the country's delegation to participate in the African Union Summit in Addis Ababa at the end of this month.¹³ The Prosecution considers that the reports of Omar Al Bashir's planned travel to Ethiopia are credible and warrant urgent intervention by the Chamber.

Relief Sought

9. 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, as well as of the Chamber's previous

¹⁰ ICC-02/05-01/09-163, ICC-02/05-01/09-179; ICC-02/05-01/09-183; ICC-02/05-01/09-198; ICC-02/05-01/09-214; ICC-02/05-01/09-217.

¹¹ ICC-02/05-01/09-164 (10 October 2013); ICC-02/05-01/09-180 (30 January 2014); ICC-02/05-01/09-184 (17 February 2014); ICC-02/05-01/09-199 (29 April 2014); ICC-02/05-01/09-215 (4 November 2014); ICC-02/05-01/09-218 (8 December 2014). On 10 October 2013, the Chamber also issued a request for arrest and surrender, inviting Ethiopia and the Kingdom of Saudi Arabia to arrest and surrender Omar Al Bashir (ICC-02/05-01/09-165).

¹² ICC-02/05-01/09-164, para. 9; ICC-02/05-01/09-180, para. 11; ICC-02/05-01/09-184, para. 13; ICC-02/05-01/09-199, para. 14; ICC-02/05-01/09-215, para. 10; ICC-02/05-01/09-218, para. 10.

¹³ See Annex A. See further: <http://www.sudaneseonline.com/board/10/msg/Sudan%E2%80%99s-president-participates-in-AU-Summit-in-Addis-Ababa-1421624593.htm> (last visited on 21 January 2015).

decisions regarding his 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 23rd day of January 2015

At The Hague, The Netherlands

¹⁴ See footnote 11 above.

¹⁵ See, e.g., ICC-02/05-01/09-162.