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

Date: 15 July 2013

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

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

Ms Fatou Bensouda, Prosecutor

Mr James Stewart, Deputy Prosecutor

Mr Ade Omofade, Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Mr Nick Kaufman

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

Registrar & Deputy Registrar

Mr Herman von Hebel

Mr Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution hereby notifies the Chamber of the travel on 14 July 2013 by President Omar Al Bashir (“Omar Al Bashir”) to the Federal Republic of Nigeria to attend the African Union Special Summit on HIV/AIDS, Tuberculosis and Malaria currently taking place in the Nigerian capital, Abuja and due to end on 16th July. The Prosecution proposes that the Chamber request information from the Nigerian authorities about the visit, while communicating to the said authorities their standing obligation to arrest persons for whom arrest warrants have been issued by this court.

Submission as an Urgent Filing

2. This notification is classified as “Urgent” because President Bashir has already travelled to Nigeria and the relief being sought would be rendered moot if a decision is not made by the Chamber prior to his departure.

Procedural Background

3. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.¹
4. 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.”²

¹ ICC-02/05-157.

² ICC-02/05-01/09-3.

5. On 5 and 6 March 2009, the Registry submitted 3 filings to the Chamber, detailing transmission of the warrant of arrest and the requests for its implementation to the Government of the Sudan,³ to all Rome Statute States Parties⁴ and to the members of the UN Security Council.⁵
6. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁶
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 travel to the Federal Republic of Nigeria

8. News reports indicate⁷ that Omar Al Bashir has arrived in the Nigerian capital, Abuja to participate in the Special Summit of the African Union on HIV/AIDS, Tuberculosis and Malaria, scheduled to take place there from 12 to 16 July 2013. The reports also state that the Nigerian president will host Omar Al Bashir and other heads of state and government for the entire period of the summit.⁸
9. A further report quotes the Nigerian presidential spokesman, Mr Reuben Abati, as stating that:

³ ICC-02/05-01/09-5.

⁴ ICC-02/05-01/09-7.

⁵ ICC-02/05-01/09-8.

⁶ ICC-02/05-01/09-95.

⁷ See: "President Albashir participates in African Summit on AIDS" on <http://www.sudanradio.info/english/modules/news/article.php?storyid=6208> - last visited July 15, 2013; "Sudan's Bashir arrives in Nigeria to anger of rights groups" <http://uk.reuters.com/article/2013/07/14/uk-sudan-icc-nigeria-idUKBRE96D0AP20130714> - last visited July 15, 2013; "Sudan's al-Bashir arrives Nigeria to red-carpet welcome" <http://premiumtimesng.com/news/140945-sudans-al-bashir-arrives-nigeria-to-red-carpet-welcome.html> - last visited July 15, 2013. Copies of these, together with other public reports, are appended to this filing as Annex A.

⁸ <http://www.sudanradio.info/english/modules/news/article.php?storyid=6208> - last visited July 15, 2013.

"The Sudanese president came for an AU event and the AU has taken a position on the ICC arrest order, so Nigeria has not taken action different from the AU stand"⁹

10. The Prosecution notes that civil society organisations are currently seeking to ensure that Nigeria abides by its Rome Statute obligations.

Relief Sought

11. The Prosecution proposes that the Chamber requests information from the authorities of the Federal Republic of Nigeria about the visit of Omar Al Bashir while communicating to the Nigerian authorities their standing obligation to arrest persons indicted by the ICC.
12. For this purpose, the Chamber may wish to have resort to the procedure outlined in Regulation 109 of the Regulations of the Court in order to hear from the requested State.



Fatou Bensouda

Prosecutor

Dated this 15th day of July 2013
At The Hague, the Netherlands

⁹ <http://www.reuters.com/article/2013/07/14/us-sudan-icc-nigeria-idUSBRE96D0AY20130714>- last visited July 15, 2013.