

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : **English**

No.: **ICC-02/05**  
Date: **2 December 2011**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Sanji Mmasenono Monageng, Presiding Judge  
Judge Sylvia Steiner  
Judge Cuno Tarfusser

**THE SITUATION IN DARFUR, THE SUDAN**

**Public Document  
With Public Annexes 1 & 2**

**Summary of Prosecutor's Application under Article 58 of the Rome Statute**

**Source: The 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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 Ms. Fatou Bensouda

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants**  
**(Participation/Reparation)**

**The Office of Public Counsel for Victims**

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

**States' Representatives**

**Amicus Curiae**

## **REGISTRY**

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**Registrar**  
 Ms. Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Other**  
**Section**

1. The Prosecution submits that there are reasonable grounds to believe that **ABDEL RAHEEM MUHAMMAD HUSSEIN** ("**HUSSEIN**") bears criminal responsibility for crimes against humanity pursuant to a State policy of the Government of the Sudan ("GoS") and war crimes committed in Darfur from August 2003 to March 2004. It also submits that arrest is necessary to ensure **HUSSEIN**'s appearance before this Court and to prevent him from obstructing or interfering with the investigation or court proceedings or committing further crimes within the Court's jurisdiction.

2. The Prosecution therefore requests under Article 58 of the Rome Statute that Pre-Trial Chamber I ("PTC I" or "Chamber") issue an arrest warrant for **HUSSEIN**.

3. After careful consideration the Office has decided to publicly announce its request for a warrant against **HUSSEIN** to promote a public discussion that may prompt the GoS to review its policy and to arrest **HUSSEIN** and cooperate with the ICC, in accordance with the UN Security Council Resolution 1593.

4. The charged crimes were perpetrated during attacks upon towns and villages in West Darfur.<sup>1</sup> These same crimes are set out in the Arrest Warrant Application against Ahmad Harun and Ali Kushayb.<sup>2</sup> Accordingly, the Prosecution relies upon the evidence submitted to the Pre-Trial Chamber in support of its previous Application, supplemented herein with evidence that demonstrates the particular additional criminal responsibility of **HUSSEIN**. The Prosecution also relies on its Application and the Court's decision in the Case of "*Prosecution v. Bashir*" ("*Bashir*"). In that case, PTC I found reasonable grounds to believe that in early 2003, President Bashir decided to use the entire state apparatus to attack and displace the civilian

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<sup>1</sup> Prosecutor's Application under Article 58(7), 27 February 2007, Public Redacted Version, ICC-02/05-56, paras 182-250.

<sup>2</sup> Prosecutor's Application under Article 58(7), 27 February 2007, Public Redacted Version, ICC-02/05-56, paras 182-250 (particularly paras 191-250).

population in Darfur, and in particular, to target the Fur, Masalit and Zaghawa ethnic groups. The Chamber found that, per President Bashir's orders, the attacks followed a consistent pattern: GoS forces surrounded the villages and houses of members of the target groups; killed, tortured, and raped persons therein; and forced the displacement of civilians to hostile terrain. The attacks were carried out in a systematic and widespread manner, in particular against the members of the targeted groups who were perceived hostile to the GoS and supportive of rebel movements. After rebel forces attacked the Al Fashir airport on 25 April 2003, the GoS launched a full-scale military operation, including the use of the Militia/Janjaweed, that targeted the rebels groups and also the ethnic communities that it believed supported them.<sup>3</sup>

5. **HUSSEIN** played a central role in the formulation and implementation of this GoS military strategy in Darfur. He was the Minister of the Interior and the Special Representative of the President in Darfur; with the power and responsibility of that position *"he could take action on behalf of the president in Darfur"*. Due to his role **HUSSEIN** also had ultimate authority over State and Locality Security Committees in Darfur,<sup>4</sup> a mechanism used to coordinate the Common Plan. These committees comprised representatives of the Sudanese Armed Forces, Police, and Intelligence agencies. They coordinated the activities of the state apparatus, defined the targets, and identified resource requirements, including on matters relating to the staffing, funding, and arming of the Militia/Janjaweed. These committees reported directly to Ahmad Harun ("Harun"), whom **HUSSEIN** appointed to head the "Darfur Security

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<sup>3</sup> The Militia/Janjaweed are described using various terms such as "Janjaweed", "Fursan", "Mujahideen" and "Bashmerga". Janjaweed literally means "a man (a devil) on horse". Historically in Darfur Janjaweed has referred to armed robbers or bandits mounted on horses or camels. In more recent times, however, the term has been used to refer to members of tribes mainly from Ma'aliya, Mahamid, Northern Reizegat, Jalul etc. who volunteer to fight for and enjoy the backing of the Sudanese Government.

<sup>4</sup> See Annex 1.

<sup>5</sup> Decision on the Prosecution Application under Article 58(7) of the Statute, ICC-02/05-01/07-1-Corr, paras 80 to 94; See also Annex 2.

Desk”,<sup>5</sup> and Harun in turn reported to **HUSSEIN**.

6. **HUSSEIN** made essential contributions to the Common Plan both directly and through Harun, by recruiting, mobilising, funding, arming, training, inciting and deploying the Militia/Janjaweed, knowing that they would commit crimes against humanity and war crimes, including murder, rape, torture, inhumane acts, pillaging and the forcible transfer of civilian populations.



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Luis Moreno-Ocampo  
Prosecutor

Dated this 2<sup>nd</sup> Day of December 2011  
At The Hague, The Netherlands