

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

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

Date: 6 August 2010

**PRE-TRIAL CHAMBER I**

**Before: Judge Cuno Tarfusser, Single Judge**

**SITUATION IN DARFUR, SUDAN**

***THE PROSECUTOR V. OMAR HASSAN AHMAD AL BASHIR***

**Public Document**

**Decision on "Notification of Public Statement by the Prosecutor"**

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**  
Mr Luis Moreno Ocampo

**Counsel ad hoc for the Defence**  
Ms Michelyne C. St-Laurent

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**  
Sir Geoffrey Nice QC  
Rodney Dixon

**Unrepresented Victims**

**Unrepresented Applicants for  
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

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**I, Judge Cuno Tarfusser**, Single Judge responsible for carrying out the functions of Pre-Trial Chamber I in relation to the proceedings of the situation in Darfur, Sudan and any related cases emanating therefrom, including the case of *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, at the International Criminal Court;<sup>1</sup>

1. **NOTING** the “Notification of Public Statement by the Prosecutor” dated 30 July 2010 (the “Submission”)<sup>2</sup>, whereby the Sudan Workers Trade Unions Federation (SWTUF) and the Sudan International Defence Group (SIDG) (collectively, “Applicants”) drew the Chamber’s attention to an article authored by the Prosecutor in the British newspaper “The Guardian” following the issuance of an arrest warrant for Omar Al Bashir for the crime of genocide, questioning the propriety of the statements contained in the article and arguing that they would “require judicial consideration”;
2. **NOTING** that the Applicants bring their filing under rule 103(1) of the Rules of Procedure and Evidence;
3. **NOTING** that rule 103 provides that, at any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, grant leave to a State, organization or person to submit any observation on any issue that the Chamber deems appropriate;
4. **CONSIDERING** that, as consistently held in the case law of the Court, rule 103 (i) requires an applicant to secure the leave of the competent Chamber prior to submitting any observations pursuant to the said rule and (ii) must relate to an issue that is before the relevant Chamber<sup>3</sup>;

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<sup>1</sup> ICC-02/05-233.

<sup>2</sup> ICC-02/05-01/09-102.

<sup>3</sup> ICC-01/04-01/06-1289; ICC-02/04-01/05-342; ICC-02/05-185.

5. **CONSIDERING** that, as made apparent by its title, the sole object and purpose of the Submission seems to be “notifying” the Chamber of a particular statement made by the Prosecutor;

6. **CONSIDERING** that this conclusion is confirmed by the fact that the Applicants (i) fail to identify the “issue” pending before and to be determined by the Chamber, in respect of which they might submit observations which would be of assistance to it; (ii) fail to request leave for submitting observations and, instead, simply state that they would be “willing to assist the Chamber on this topic ... by more detailed representations of the law or otherwise”;

7. **CONSIDERING** that, accordingly, the Submission falls outside the scope and purpose of rule 103 of the Rules and is therefore inadmissible, this preventing the Single Judge from addressing its merits;

8. **NOTING** the “Requête de la Conseil ad hoc de la Défense pour permission de répondre à la procédure intitulée: «Notification of Public Statement by the Prosecutor»” dated 4 August 2010 (the “Defence Application”), whereby the ad hoc Counsel for the Defence requests to be authorised to respond to the Submission under rule 103(2)<sup>4</sup>;

9. **CONSIDERING** however that, in light of the above, the Submission does not qualify as “observations” submitted under rule 103 of the Rules and that, accordingly, no response is required by either the Prosecutor or the Defence;

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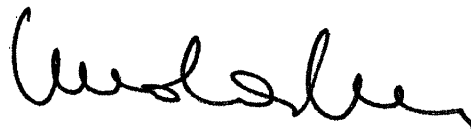
<sup>4</sup> ICC-02/05-01/09-104.

**FOR THESE REASONS,**

**DECLARE** the Submission inadmissible and therefore **REJECT** it;

**REJECT** the Defence Application.

Done in English and French, the English version being authoritative.



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**Judge Cuno Tarfusser**  
**Single Judge**

Dated this Friday, 6 August 2010

At The Hague, The Netherlands.