

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/12

Date: 26 April 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. ABDEL RAHEEM MUHAMMAD
HUSSEIN***

Public Document

**Order Regarding Abdel Raheem Muhammad Hussein's Potential Visit to the
Republic of Chad**

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor

Ade Omofade, Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Competent authorities of the Republic of Chad

Amicus Curiae

REGISTRY

Registrar

Herman Von Hebel

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Others

Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”) renders this order concerning the “Prosecution’s notification of possible travel in the case of *The Prosecutor v. Abdel Raheem Muhammad Hussein* pursuant to Article 97 of the Rome Statute” (the “Prosecutor’s Notification”).¹

1. On 31 March 2005, the 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.²

2. On 1 March 2012, Pre-Trial Chamber I (“PTC I”) issued the “Decision on the Prosecutor’s application under article 58 relating to Abdel Raheem Muhammad Hussein”,³ and the “Warrant of Arrest for Abdel Raheem Muhammad Hussein”⁴ for crimes against humanity and war crimes committed in Darfur from August 2003 to March 2004. This warrant of arrest remains to be executed.

3. On 13 March 2012, the Registry, acting upon PTC I’s request, issued the “Request to all States Parties to the Rome Statute for the arrest and surrender of Abdel Raheem Muhammad Hussein”⁵ as well as the “Request to United Nations Security Council members not States Parties to the Rome Statute for the arrest and surrender of Abdel Raheem Muhammad Hussein”.⁶ These requests called for, *inter alia*, cooperation from all States Parties and States not Parties to the Rome Statute (the “Statute”) in the arrest and surrender of Abdel Raheem Muhammad Hussein (“Mr. Hussein”).

¹ ICC-02/05-01/12-11.

² S/RES/1593 (2005).

³ Pre-Trial Chamber I, ICC-02/05-01/12-1-Red.

⁴ Pre-Trial Chamber I, ICC-02/05-01/12-2.

⁵ ICC-02/05-01/12-5.

⁶ ICC-02/05-01/12-6.

4. On 15 March 2012, the Presidency issued the “Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d’Ivoire situations”, in which it re-assigned, *inter alia*, the situation of Darfur, Sudan to this Chamber.⁷

5. On 25 April 2013, the Chamber received the Prosecutor’s Notification.⁸ According to the Prosecutor’s Notification and the annex appended thereto, Mr. Hussein “will participate in the fourth conference on performance evaluation of the joint Sudanese-Chadian border”, which is scheduled to take place in the Republic of Chad on 25 and 26 April 2013.⁹

6. The Chamber notes articles 86, 87(7) and 89 of the Statute.

7. The Chamber notes that the Republic of Chad is a State Party to the Statute since 1 January 2007, and accordingly, it is under the obligation, in accordance with articles 86 and 89 of the Statute, to execute the pending Court’s decisions concerning the arrest and surrender of Mr. Hussein.

8. The Chamber further notes that according to article 87(7) of the Statute “[w]here a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, [...] the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council”.

⁷ Presidency, ICC-02/05-01/09-143.

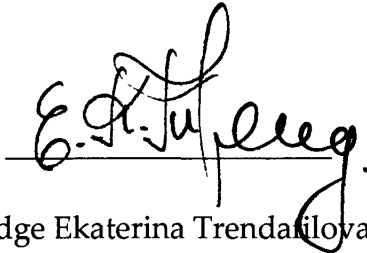
⁸ ICC-02/05-01/12-11 and its annex.

⁹ ICC-02/05-01/12-11-AnxA.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) instructs** the Registry to immediately transmit the present order to the Republic of Chad;
- b) orders** the Registry to prepare and send a note verbale to the competent authorities of the Republic of Chad enquiring about said visit, and reminding the State of its obligations with respect to the arrest and surrender of Mr. Hussein to the Court; and
- c) orders** the Registry to prepare a report to be filed with the Chamber in due course concerning said visit.


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



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul



Judge Cuno Tarfusser

Dated this Friday, 26 April 2013

At The Hague, The Netherlands