

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No.: ICC
Date: 15 April 2015**

PRE-TRIAL CHAMBER II

**Before: Judge Cuno Tarfusser, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Chang-ho Chung**

Public

**Orders to the Registrar concerning action to be taken in case of information
relating to travel of suspects**

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

The Office of the Prosecutor
 Fatou Bensouda, Prosecutor
 James Stewart, Deputy Prosecutor

Counsel for 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

Amicus Curiae

REGISTRY

Registrar
 Herman von Hebel

Counsel Support Section

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”) issues this order relating to the scenario whereby the Court, or any of its organs, receives information relating to travel, whether planned or ongoing, of persons for whom a warrant of arrest, still in effect, has been issued by the Court and who are still at large.

1. Throughout the years, action taken by the Court in relation to and as a reaction to information received in such a scenario has varied in scope and nature; hence the need for harmonisation of practices.
2. The Chamber notes articles 13, 86, 87, 89, 91 and 92 of the Rome Statute (the “Statute”) and rules 176-180 of the Rules of Procedure and Evidence (the “Rules”). In particular, the Chamber notes that, in accordance with rule 176(2) of the Rules, the “Registrar shall transmit the requests for cooperation made by the Chambers and shall receive the responses, information and documents from requested States”.
3. The Chamber, having assessed the matter, is of the view that it shall be appropriately and effectively addressed by means of action to be taken by the Registrar, in accordance with his responsibilities under rule 176(2) of the Rules. By the same token, it underscores that different courses of action should be taken depending on whether or not a request for arrest and surrender of the relevant suspect has already been transmitted pursuant to a Chamber’s order to the State affected by that suspect’s travel.
4. In the affirmative, such action shall consist of the notification of that State with a *Note verbale* containing a reminder of (i) the obligations stemming from the Statute, in the event that the State affected by travel is a State Party to the Statute; (ii) the possibility to provide assistance to the Court in accordance with article 87(5)(a) of the Statute, in the event that the State affected by travel is not a party to the Statute; (iii) the obligations stemming from a resolution of

the Security Council of the United Nations, when the outstanding warrant of arrest was issued in a case arising from a situation referred to the Court pursuant to article 13(b) of the Statute.

5. In the negative, such action shall consist of the transmission of a request for arrest and surrender of the relevant suspect to the relevant State. The Chamber hereby orders the Registrar to take all the relevant steps which are necessary to this effect in accordance with articles 89 and 91 of the Statute and rule 176(2) of the Rules. In urgent cases, the Registrar shall proceed in accordance with article 92 of the Statute and request the provisional arrest of the suspect, pending presentation of the request for arrest and surrender and the documents supporting the request as specified in article 91 of the Statute.

6. The Chamber stresses that the applicable course of action shall be resorted to in respect of (i) any and all persons who are the subject of a warrant of arrest issued by the Court which is still in effect and has not been enforced, (ii) for whom information of travel, whether planned or ongoing, is relayed to the Court or one of its organs. The Registrar will have to act in accordance with the level of classification of the relevant warrant of arrest and remind, if need be, the relevant States of the necessity to keep any request and supporting documentation sent by the Court confidential in accordance with article 87(3) of the Statute.

7. The Registrar is requested to prepare and submit to the Chamber a report on action taken in respect of the information received and any follow-up to that action, as the case may be.

8. Finally, the Chamber also stresses the importance that the Registrar and the Office of the Prosecutor liaise and cooperate in respect of information relating to possible travels of suspects received by either organ.

FOR THESE REASONS, THE CHAMBER HEREBY**ORDERS**

the Registrar, each and every time that information of travel, whether planned or ongoing, as regards persons at large who are the subject of a warrant of arrest issued by the Court is relayed to the Court or one of its organs, to notify any and all States Parties to the Statute affected by such travel, to which a request for arrest and surrender of the relevant person has already been transmitted, with a *Note verbale* containing a reminder of their obligation to cooperate with the Court in the arrest and surrender of that person in accordance with articles 86 and 89 of the Statute;

ORDERS

the Registrar, each and every time that information of travel, whether planned or ongoing, as regards persons at large who are the subject of a warrant of arrest issued by the Court is relayed to the Court or one of its organs, to notify any and all States not Parties to the Statute affected by such travel, to which a request for arrest and surrender of the relevant person has already been transmitted, with a *Note verbale* containing a reminder (i) that they may decide to provide assistance to the Court in accordance with article 87(5)(a) of the Statute with regard to the arrest and surrender of that person or, (ii) if information of travel regards a person who is the subject of a warrant of arrest issued in a case arising from a situation referred to it pursuant to article 13(b) of the Statute, the obligations stemming from the relevant resolution of the Security Council of the United Nations;

ORDERS

the Registrar, each and every time that information of travel, whether planned or ongoing, as regards persons at large who are the subject of an arrest

warrant issued by the Court is relayed to the Court or one of its organs and such travel is related to a State to which no request for arrest and surrender of the relevant person has yet been transmitted, to prepare and transmit such request to the relevant State in accordance with articles 89 and 91 of the Statute, or, in urgent cases, to request the provisional arrest of that person in accordance with article 92 of the Statute pending the presentation of the request for arrest and surrender;

ORDERS

the Registrar to file this order in the record of all cases arising out of all situations pending before the Chamber, and to proceed in the same way in all cases arising from future situations which could be assigned to the Chamber in accordance with regulations 46(2) of the Regulations of the Court, unless otherwise ordered by the Chamber;

ORDERS

the Registrar to liaise and cooperate with the Office of the Prosecutor in respect of information relating to possible travels of suspects received by either organ;


ORDERS

the Registrar to prepare a report on the information received as regards travels, whether planned or ongoing, by persons at large for whom a warrant of arrest has been issued by the Court and the action taken in respect of it, as well as on any follow-up which might be received from States, to be filed in the relevant case record, as appropriate;

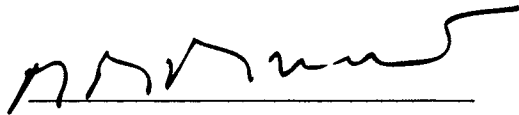
DECIDES

that these orders shall be effective as of today and shall supersede any other practice in the matter, unless otherwise ordered by the Chamber.

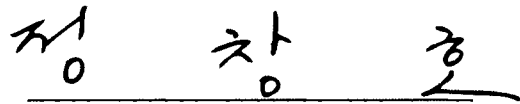
Done in both English and French, the English version being authoritative.



Judge Cuno Tarfusser
Presiding Judge



Judge Marc Perrin de Brichambaut



Judge Chang-ho Chung

Dated this Wednesday, 15 April 2015

The Hague, The Netherlands