



Original: **English**

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

Date: **18 September 2017**

PRE-TRIAL CHAMBER II

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

SITUATION IN DARFUR, SUDAN

IN THE CASE OF *THE PROSECUTOR v. OMAR HASSAN AHMAD AL BASHIR*

Public

**Decision requesting the Hashemite Kingdom of Jordan to provide further
information**

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the 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 Hashemite
Kingdom of Jordan

Other

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Pre-Trial Chamber II (“Chamber”) of the International Criminal Court (“Court”), acting under article 87(7) of the Rome Statute, issues this decision requesting the Hashemite Kingdom of Jordan (“Jordan”) to provide further information.

1. The Chamber is currently seized, under article 87(7) of the Statute, of the question whether Jordan failed to comply with the Court’s request for arrest and surrender of Omar Hassan Ahmad Al-Bashir (“Omar Al-Bashir”) contrary to the provisions of the Statute when Omar Al-Bashir was present on Jordan’s territory on 29 March 2017, thereby preventing the Court from exercising its functions and powers under the Statute.¹
2. On 30 June 2017, the Registry transmitted to the Chamber a note verbale containing Jordan’s submissions in relation to the pending matter.²
3. On 13 July 2017, the Prosecutor responded to Jordan’s submissions.³
4. Jordan’s submissions to the Chamber include the argument that Omar Al-Bashir “enjoyed immunity from criminal jurisdiction of Jordan during his attendance of the Arab Summit as a matter of treaty law pursuant to the 1953 Convention on the Privileges and Immunities of the Arab League (acceded to by Jordan on 12 December 1953)”.⁴
5. However, the Chamber has not been provided with the text of this convention. Moreover, it appears that the convention has not been registered with the Secretariat of the United Nations and published by it, in line with article 102(1) of the Charter of the United Nations. The Chamber notes that the convention has been published in

¹ See “Decision inviting the Hashemite Kingdom of Jordan to provide any further submissions on its failure to arrest and surrender Omar Al-Bashir to the Court”, 26 April 2017, ICC-02/05-01/09-267.

² ICC-02/05-01/09-301-Conf-Anx.

³ ICC-02/05-01/09-303-Conf.

⁴ ICC-02/05-01/09-301-Conf-Anx, p. 3.

English as part of the United Nations Legislative Series in 1961,⁵ but does not consider it possible to determine the issues under consideration based on information which is not authoritative.

6. In order to be placed in position to properly consider Jordan's submissions, the Chamber considers it appropriate to request Jordan to complement its submissions by providing to the Chamber an authoritative text of the 1953 Convention on the Privileges and Immunities of the Arab League as well as the status of its ratification. Jordan may also elaborate its submissions as concerns the alleged treaty-based immunity of Omar Al-Bashir.

FOR THESE REASONS, THE CHAMBER HEREBY

REQUESTS the Hashemite Kingdom of Jordan to provide the Chamber with an authoritative text of the 1953 Convention on the Privileges and Immunities of the Arab League as well as the status of its ratification, by 18 October 2017.

⁵ United Nations Legislative Series, Legislative Texts and Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations, Volume II, 1961, pp. 414-420, reprinted by William S. Hein & Co., Inc., 2003.

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 18 September 2017

At The Hague, The Netherlands