

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-02/05**

Date: **6 March 2009**

PRE-TRIAL CHAMBER I

**Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka, Judge
Judge Sylvia Steiner, Judge**

SITUATION IN DARFUR, THE SUDAN

URGENT

PUBLIC DOCUMENT

**Prosecution's Provision of Further Information Pursuant to
the "Decision Requesting Additional Information and Supporting Materials", and
Urgent Request for Expedited Consideration of the Prosecution's Application under
Article 58**

Source: 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

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

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REGISTRY

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Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Other Section

Procedural Background

1. On 20 November 2008, the Office of the Prosecutor ("the Prosecution" or "the Office") filed an Application under Article 58 of the Rome Statute, requesting that Pre-Trial Chamber I ("PTC") issue warrants of arrest or, alternatively, summonses to appear for the three individuals named therein ("the Application").¹ The Application was classified as "Confidential-Ex parte Prosecution Only". On the same day the prosecution filed a public summary of the application.²
2. On 9 December 2008, the PTC issued its "Decision Requesting Additional Information and Supporting Materials" ("the 9 December Decision")³, requesting the Prosecution to submit additional information and supporting materials in relation to those aspects of the Application referred to in a confidential *ex parte* Annex thereto.
3. On 16 January 2009, pursuant to the 9 December Decision, the Prosecution filed the "Prosecution's Provision of Further Information in Compliance with the "Decision Requesting Additional Information and Supporting Materials".⁴
4. On 26 January 2009, the Prosecution submitted supplemental information on one of the issues identified in the 9 December Decision.⁵
5. On 3 February 2009, the Chamber convened a hearing to discuss issues contained in a confidential *ex parte* Agenda annexed to its decision to convene the hearing.

¹ ICC-02/05-163-Conf-Exp.

² ICC-02/05-152.

³ ICC-02/05-166

⁴ ICC-02/05-172.

⁵ ICC-02/05-173.

6. On 23 February 2009, the Prosecution filed its "Submission of information on the Prosecution's Application Pursuant to Article 58 and request for summonses to appear"⁶.
7. On 25 February 2009, the Prosecution filed a Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58"⁷.
8. On 2 March 2009, the PTC rendered its decision on the Prosecution's Request for Expedited Decision on the Prosecution's Application, denying the request of the Prosecution on the ground that the decision on the prosecution's request in relation to Al Bashir had to be completed by the 4th of March and that the issues to be decided are complex and require detailed analysis.⁸

Provision of Additional Information

9. Pursuant to the 9 December Decision, the Prosecution hereby provides further additional information on one of the issues identified in the confidential annex to the 9 December Decision. This additional information is contained in Confidential *ex parte* Annex 1 of this filing and specifically addresses points raised by the Chamber.

Urgent Request for Expedited Consideration

10. The Prosecution notes that the decision on Omar Al Bashir was issued on 4 of March and that new Judges will be sworn in on 11 March 2009, and that this may have an impact on the current composition of the Pre-Trial Chambers of the Court including possibly PTC I. The Prosecution is of the view that if PTC I were to be reconstituted before a decision on the Application is rendered, the new PTC will require substantial additional time to acquaint itself with the Situation, the


⁶ ICC-02/05-194-Conf-Exp.

⁷ ICC-02/05-195-Conf-Exp.

⁸ ICC-02-05-199

Application and its supporting materials, (7 witnesses statements and 55 documents) especially given the complexity of some issues in the case, as already observed by PTC I. It follows, therefore, that a newly constituted PTC I may not be in a position to render a decision on the Prosecution's Application within a short period of time.

11. The Prosecution notes that the current members of PTC I are already familiar with the facts and the materials submitted by the Prosecution in support of the Application, The assignment of this Application to a newly constituted PTC I would cause further delay.
12. For the foregoing reasons, taking into consideration the additional information provided and in the interest of judicial economy, the Prosecution respectfully requests the Chamber to render an expedited decision on the Prosecution's Application before 11 March 2009.



Luis Moreno-Ocampo
Prosecutor

Dated this 6th day of March 2009

The Hague, Netherlands