

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **23 February 2009**

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, President
Judge Anita Ušacka, Judge
Judge Sylvia Steiner, Judge

SITUATION IN DARFUR, THE SUDAN

Public Redacted Version

***Submission of information on the Prosecution's Application Pursuant to Article 58
and request for summonses to appear***

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**

States Representatives

Amicus Curiae

REGISTRY

Registrar
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 pursuant to Article 58 of the Rome Statute (“the Application”) requesting Pre-Trial Chamber I (the “PTC”) to issue warrants of arrest or alternatively summonses to appear for [REDACTED]¹. The Application was classified “Confidential - Ex parte Prosecution Only”. On the same day, the Prosecution filed as a Public Document the “Summary of the Prosecutor’s Application under Article 58”.
2. On 2 December 2008, the Prosecution filed its “Provision of Information Pursuant to Article 58”, in which it provided the PTC with further information on [REDACTED] their willingness to cooperate with the Court.²
3. On 22 December 2008, the Prosecution made a filing requesting authorization of the PTC to disclose [REDACTED] the names of the [REDACTED] individuals named in the Application in order to enable them to appear before the Court at the appropriate time.³ The Single Judge denied the Prosecution’s request on the ground, *inter alia*, that the Prosecution’s Application Pursuant to Article 58 has not yet been decided.
4. On 1 February 2009, [REDACTED] submitted a letter [REDACTED] copied to the Office.
5. [REDACTED].
6. On 2 February 2009, the PTC issued its “Decision modifying the agenda of the scheduled Ex Parte Hearing of 3 February 2009”, requesting information from the

¹ ICC-02/05-163-Conf-Exp 20-11-2008

² ICC-02/05-165-Conf-Exp + Anxs1-8.

³ ICC-02/05-167-Conf-Exp

Prosecution on an additional issue raised in the confidential *Ex parte* annex thereto – i.e.[REDACTED]. On 3 February 2009, the Prosecution filed its “Submission of information on the Prosecution's Application Pursuant to Article 58.”

7. By way of an update to the information provided to the PTC in its filings of 2 December 2008 and 22 December 2008 and at the hearing of 3 February 2009, the Prosecution now submits the following further information:

Submission of Information by the Prosecution

8. [REDACTED] The Prosecution hereby submits to the PTC a letter [REDACTED]. By this letter addressed to the Prosecutor of the ICC, [REDACTED] affirms its full cooperation and support for the Court, welcomes any opportunity to meet with the Prosecutor, and the willingness of its commanders to appear voluntarily before the Court if named by the Court.

9. [REDACTED]⁴

10. [REDACTED]

11. [REDACTED]

12. [REDACTED].

13. [REDACTED].

14. [REDACTED]

⁴ [REDACTED]

15. [REDACTED.] Based on such information, the Office sent a mission to [REDACTED] and a request for cooperation [REDACTED] to allow the Office [REDACTED] to conduct an interview under Article 55 of the Rome Statute.

Relief sought - Summonses to Appear

16. In light of the above information, the Prosecution refers to paragraph 173 of its Application in which it stated that summonses to appear could be an alternative to warrants of arrest should the three commanders express their willingness to surrender voluntarily before the Court. The Prosecution now assesses that summonses to appear will be sufficient to ensure the appearance of the individuals named in the Application and will actually be the most efficient means to ensure such appearance. [REDACTED]

17. [REDACTED]

18. [REDACTED]

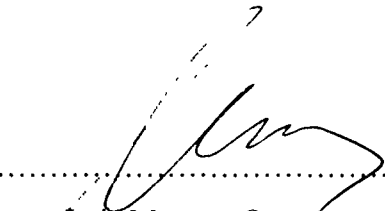
19. For the above reasons, the Prosecution respectfully requests the following:

- (i) If the PTC is satisfied that the evidence and information provided by the Prosecution meets the required threshold pursuant to Article 58(1) of the Statute, it should issue summonses to appear against the individuals named in the Application;
- (ii) Should the PTC decide to issue summonses to appear. [REDACTED]⁵; the Prosecution will keep the PTC informed of any

⁵ [REDACTED]

developments in this regard and could file a request for expedited consideration of the Application [REDACTED].

- (iii) In the event that the PTC does issue summonses to appear [REDACTED], the Prosecution will make a fresh assessment and recommend to the PTC to convert the summons for such individual to a warrant of arrest.



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Luis Moreno-Ocampo
Prosecutor

Dated this 23rd day of February 2009

The Hague. Netherlands