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International Criminal Court: Possible arrest warrants against Sudanese officials

1. What will happen on Monday 14 July?

The Prosecutor of the International Criminal Court (ICC), Luis Moreno Ocampo, will submit to the Judges of the Court evidence of crimes allegedly committed in Darfur over the last five years. He will request the Judges to issue one or more arrest warrants for the individual(s) allegedly responsible for those crimes.

In June 2008, the ICC Prosecutor told the UN Security Council: “The evidence shows that the commission of such crimes on such a scale, over a period of five years, and throughout Darfur, has required the sustained mobilization of the entire Sudanese state apparatus.” On this basis, the application for arrest warrant(s) is expected to concern high Sudanese officials.

2. What will happen next?

The Judges of Pre-Trial Chamber I will examine the Prosecutor’s application for arrest warrant(s). They have to decide whether there are “reasonable grounds to believe” that the person(s) named in the Prosecutor’s application have committed a crime within the jurisdiction of the Court. If the Judges conclude that the arrest of the persons appears necessary to ensure the persons’ appearance at trial or to ensure that they do not obstruct or endanger the investigations or to prevent the persons from continuing with the commission of crimes, they may issue arrest warrants.

In previous cases, the Judges have taken from one to three months to decide whether to issue arrest warrants.

3. What will happen if warrant(s) of arrest are issued?

The government of Sudan has a legal obligation to arrest and surrender to the ICC anyone named in arrest warrant(s). The United Nations Security Council imposed on the government of Sudan and all other parties to the conflict in Darfur a legal obligation to “cooperate fully with and provide any necessary assistance to the Court and the Prosecutor” (Resolution 1593 of 31 March 2005). Recently, the President of the Security Council urged the government of Sudan and all other parties to the conflict in Darfur to cooperate fully with the Court “in order to put an end to impunity for the crimes committed in Darfur” (Statement by the President of the Security Council, 16 June 2008).

The UN Security Council also urged all States and concerned regional and other international organizations to cooperate fully with the ICC (Resolution 1593 of 31 March 2005). In addition, states that have ratified the Rome Statute of the ICC have a legal obligation under the Statute to arrest and surrender the suspect(s) named in the arrest warrant(s).

4. Why is the ICC only targeting the government of Sudan and not the armed groups?

In December 2007 the ICC Prosecutor informed the United Nations Security Council that his Office is collecting information on the Haskanita attack (October 2007 killing of 10 African peacekeepers), attributed to armed groups.

5. Which consequences will these allegations have on the ground?

The request for indictment of high Sudanese officials could have repercussions on various fronts. First, it could have adverse consequences on the present and future deployment of the UNAMID peacekeeping force and on their capacity to protect civilians in Darfur. Secondly, it could further compromise the delivery of humanitarian assistance and the capacity of humanitarian organizations to operate in the region. Thirdly, it might lead to a further imposition of restrictive measures to clamp down on freedom of expression in the country, in particular against Sudanese press and media in order to avoid public reporting on the prosecutor's decision.

6. Does Amnesty International welcome this new case?

Amnesty International takes no position on the merits of the Prosecutor's allegations nor on the guilt or innocence of the suspect(s).

Amnesty International stresses that no one, regardless of their status - including a head of state - has immunity for crimes under international law. In the past, two individuals have been indicted for crimes under international law while they were holding positions of head of state.

Yugoslav President Slobodan Milosevic became the first sitting head of state to be charged with crimes under international law in May 1999. At that time, Amnesty International stressed that the decision to indict Milosevic should have no adverse impact on peace negotiations with officials of the Federal Republic of Yugoslavia (FRY).

The indictment against Liberian President Charles Taylor, issued by the Special Court for Sierra Leone, was unsealed on the morning when the talks aimed at resolving Liberia's internal armed conflict were scheduled to begin, in June 2003.

7. What further steps will Amnesty International take?

If and when the Court will issue arrest warrant(s) on the basis of the Prosecutor's application, Amnesty International will campaign for the arrest warrant(s) to be executed, independently of individuals named and the allegations against them.

Background information

On 31 March 2005 the United Nations Security Council determined that the situation in Sudan constituted a threat to international peace and security. Acting under Chapter VII of the UN Charter, the Security Council adopted Resolution 1593, referring "the situation in Darfur since 1 July 2002" to the ICC Prosecutor. The ICC Prosecutor opened an investigation into the situation in Darfur, Sudan, on 1 June 2005.

Amnesty International is already campaigning for the execution of other arrest warrants issued by the ICC. The organization is calling for the arrest and surrender to the Court of Sudanese government minister Ahmad Harun and Janjawid militia leader Ali Kushayb, both suspected of war crimes and crimes against humanity committed in Darfur, against whom the ICC issued arrest warrants in April 2007. Amnesty International is also campaigning for the arrest and surrender to the Court of the Lord's Resistance Army (LRA) leaders, suspected of war crimes and crimes against humanity committed in Northern Uganda, against whom the ICC issued arrest warrants in July 2005.