



Sudan: Open letter to the European Union

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Your Excellency,

One year ago, the International Criminal Court (ICC) issued arrest warrants against Ahmad Harun and Ali Kushayb for their alleged role in war crimes and crimes against humanity in Darfur. On the anniversary of their issuance, we write to urge you to press the European Union to take immediate steps to ensure the prompt arrest and surrender to the ICC of these two suspects.

As you will know, three years ago the European Union (EU) was instrumental in demanding justice for atrocities committed in Darfur and in paving the way for the Security Council referral of the situation to the ICC. In 2004, the EU called on the United Nations (UN) to establish a Commission of Inquiry into crimes committed in Darfur. On the basis of the Commission of Inquiry's recommendations, the EU called on the UN Security Council to refer the Darfur situation to the ICC, which it did with resolution 1593. However the EU efforts in getting this historic referral risk being undermined if both the UN Security Council and the EU fail to respond to the Sudanese government's ongoing and explicit refusal to cooperate with the Court.

On March 31, 2005, when the Council referred the situation in Darfur to the ICC under resolution 1593, it imposed on Sudan a binding legal obligation to cooperate with the Court. On April 27, 2007, the ICC Pre-Trial Chamber issued arrest warrants for two men, Ahmad Harun and Ali Kushayb, charging them with 51 counts of war crimes and crimes against humanity for their leading roles in a series of attacks against civilians in West Darfur in 2003 and 2004. The charges include acts of murder, persecution, torture, rape and forcible displacement.

Since the referral, the government of Sudan has repeatedly refused to cooperate with the Court. In the year since the warrants were issued, Sudanese authorities have not only refused to arrest and hand over the two suspects, they have given one of them increasingly prominent public positions and released the other from prison. Ahmad Harun has been promoted to State Minister for Humanitarian Affairs, responsible for the well being of the very victims of his alleged crimes, and is now a key liaison to the United Nations African Union hybrid peacekeeping force (UNAMID) in charge of their protection. In September 2007, he was reportedly appointed to a committee in charge of hearing complaints of victims of human rights abuses in Sudan. In October 2007, the Sudanese Minister for Foreign Affairs announced that Ali Kushayb – who was in Sudanese custody on other charges at the time the warrants were issued – had been released for alleged lack of evidence.

In the past few months, the European Union has repeatedly called on the government of Sudan to cooperate unconditionally with the ICC and to immediately surrender Harun and Kushayb.¹ On 31 March 2008, the presidency of the European Union issued a declaration on behalf of the EU for the anniversary of the UN Security Council referral, expressing its strong dismay at the government of Sudan's continued failure to cooperate with the ICC and stating that "[i]n the event of continued non-compliance with the terms of UNSC Resolution 1593, the EU will support appropriate further measures against those who bear responsibility for Sudan's failure to cooperate with the ICC." But the EU has yet to ensure that the government of Sudan complies with the will of the international community, particularly in relation to the enforcement of ICC arrest warrants.

The "Justice for Darfur" campaign, a group of human rights organizations from around the world, has come together today to call on the EU, the UN Security Council, and the international community as a whole to ensure the prompt arrest and surrender to the ICC of these two suspects.

We urge the European Union to act in accordance with its stated commitment to the Court and its promise to provide justice for the victims of human rights abuses in Darfur. To do so the EU should:

- In the lead up to the ICC prosecutor's report to the UN Security Council in June, continue to provide public support to the Court, in particular through EU Council Conclusions, and invite the prosecutor to brief the EU Political and Security Committee in Brussels,**
- Discuss with the ICC prosecutor his report on steps made by the government of Sudan towards cooperation with the Court, including during the June meeting of the General Affairs and External Relations Council (GAERC),**
- Press on the Security Council to issue a resolution recalling that Sudan has a legal obligation to cooperate with the ICC under resolution 1593 and requiring that it immediately arrests Ahmad Harun and Ali Kushayb and surrenders them to the Court,**
- Seize all available opportunities, including public statements, to press Sudan to cooperate with the Court and comply with the warrants and call on other states and regional organizations to do so too.**

The EU has been a staunch supporter of the International Criminal Court since its inception. All but one EU member states are states parties to the ICC, and the EU was the first regional organization to conclude a cooperation agreement to assist with the Court's work. In keeping with its Common Position on the ICC, the EU has been a champion of the Court, promoting the widest possible ratification of the Rome Statute, defending its integrity when under attack and expressing support for its mandate and work in international and bilateral fora. The European Union's support is crucial. Now that the Court is at work investigating and prosecuting the most serious crimes, the EU must use its influence to ensure that ICC decisions are enforced.

Three years ago the European Union showed its commitment both to the ICC and to justice

¹ General Affairs and External Relations Council conclusions on Sudan, 10 December 2007, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/97556.pdf ; General Affairs and External Relations Council conclusions on Sudan, 28 January 2008, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/98460.pdf

for the victims of atrocities in Darfur. The EU should now honor that commitment and finally help put an end to Khartoum's ongoing and explicit disregard of the Court, the UN Security Council, and the victims themselves.

Sincerely,

The "Justice for Darfur" campaign:

Anne-Cécile Antoni, President, **Action des chrétiens pour l'abolition de la torture - France**

Nasser Amin, Director General, **Arab Center for the Independence of the Judiciary and the Legal Profession**

Dr James Smith, Chief Executive, **Aegis Trust**

Widney Brown, Senior Director, International Law, Policy and Campaigns, **Amnesty International**

Nabeel Ahmed Rajab, Vice President, **Bahrain Centre for Human Rights**

Abdulla Alderazi, General Secretary , **Bahrain Human Rights Society**

Moataz El Fegier, Executive Director, **Cairo Institute for Human Rights Studies**

Ljubomir Mikic, President, **Center for Peace, Legal Advice and Psychosocial Assistance – Vukovar**

Oby Nwankwo, Executive Director, **The Civil Resource Development and Documentation Centre**

William Pace, Convenor, **Coalition for the International Criminal Court**

Jacky Mamou, President, **Collectif Urgence Darfour**

Dismas Nkunda, Co-Chair, **Darfur Consortium**

Khatir M Kayabil, Secretary General, **Darfur Union UK**

Souhayr Belhassen, President, **Fédération Internationale des ligues des Droits de l'Homme**

Betsy Apple, Crimes against Humanity Program Director, **Human Rights First**

Richard Dicker, International Justice Program Director, **Human Rights Watch**

Caroline Wojtylak, Director, **International Criminal Court Student Network UK**

Farouk Bagambe, Chairperson, **Kalangala District NGO Forum - Uganda**

Karam Saber, Executive Manager, **Land Center for Human Rights**

Jiri Kopal, Chair, **League of Human Rights, Czech Republic**

Hassan Greeve, Chairman, **Prepared society Kenya**

Chris Baruti, Board Member, **Recherches et Documentation Juridiques Africaines**

Tara Tavender, Executive Director, **Save Darfur Canada**

Tilman Zülch, President, **Society for Threatened Peoples International**

Adetokunbo Mumuni, Executive Director, **Socio-Economic Rights & Accountability Project**

Yoni Levitan, Executive Director, **Students Taking Action Now: Darfur - Canada**

Isobel Renzulli, Project Coordinator, **Sudan organization against Torture**

Hillel Neuer, Executive Director, **UN Watch**

Louise Roland-Gosselin, Director, **Waging Peace**