

ANNEX 7

BBC News

Wanted Sudan leader Bashir avoids South Africa arrest¹

15 June 2015, 18:30

Sudanese President Omar al-Bashir has returned to Khartoum from South Africa, avoiding a court order barring him from leaving while an international warrant for his arrest was being reviewed.

Mr Bashir faces war crimes charges at the International Criminal Court (ICC) in The Hague. The Pretoria High Court ordered his arrest soon after he left.

Mr Bashir was visiting Johannesburg for an African Union (AU) summit.

An ICC official said the failure to arrest Mr Bashir was "disappointing".

A South African judge, Dunstan Mlambo, meanwhile said the failure to arrest Mr Bashir had violated the country's constitution.

But Sudan has described the attempt to arrest Mr Bashir as "lame and meaningless".

Foreign Minister Ibrahim Ghandour told reporters at Khartoum airport that the court order was an attack on Sudanese sovereignty.

The Sudanese leader is accused of committing war crimes, crimes against humanity and genocide during the Darfur conflict.

The UN says that about 300,000 people in Sudan have died since fighting began in 2003. More than 1.4 million people are thought to have fled their homes.

Government forces and allied Arab militias are accused of targeting black African civilians in the fight against rebels.

On Monday, UN Secretary-General Ban Ki-moon said the ICC's warrant for the arrest of Mr Bashir must be implemented by countries who have signed up to the court's statutes.

As a member of the ICC, South Africa is obliged to arrest anyone charged by the court.

Press review: 'A precedent for other leaders'

The South African press has been considering the repercussions of the attempt to arrest Sudanese President Omar al-Bashir, who had been attending an AU summit.

¹ Available at <http://www.bbc.com/news/world-africa-33135562> last accessed 15 June 2015.

IOL News said Mr Bashir's departure would leave "a major constitutional and diplomatic crisis and a big question mark over South Africa's continued membership of the ICC".

The Cape Times said the decision to invite the Sudanese president, despite his indictment by the ICC, had "exposed the fact that the AU considers the ICC largely irrelevant".

"This has the potential to sound the death knell of the ICC," the newspaper said, adding that the arrest "would set a precedent for other leaders on the continent who could be subject to the criminal jurisdiction of the ICC for their actions".

Q&A: International Criminal Court

Before the summit, the ICC issued a press statement urging the South African government "to spare no effort in ensuring the execution of the arrest warrant".

Kenneth Roth, the director of advocacy group Human Rights Watch, tweeted that South Africa appeared to have "shamefully flouted" the ICC and domestic court to free a man "wanted for mass murder of Africans".

Darfur conflict: Key points

- Fighting began in 2003 when black African rebels in Darfur took up arms, accusing the government of neglect
- Pro-government Arab militias, known as Janjaweed, accused of responding with ethnic cleansing
- In 2008, the UN estimated that 300,000 people had died because of the war, though Khartoum disputes the figure
- More than 1.4 million people have fled their homes
- In 2010, the ICC charged President Bashir with genocide in relation to the Darfur conflict
- There have been several peace processes, but fighting continues, with numerous armed groups now active

New York Times - Omar al-Bashir of Sudan Leaves South Africa, Avoiding Arrest² 15 June 2015

JOHANNESBURG — President Omar Hassan al-Bashir of Sudan, who faced arrest on international charges of crimes against humanity and genocide, slipped out of South Africa on Monday morning, dealing a serious blow to the International Criminal Court's six-year campaign to bring him to justice.

Mr. Bashir's private jet was seen flying out of a South African military airport near Pretoria, apparently unhindered by the South African authorities who had been ordered by their country's High Court to prevent him from departing.

² Available at http://www.nytimes.com/2015/06/16/world/africa/omar-hassan-al-bashir-sudan-south-africa.html?smid=pl-share&_r=1 last accessed 15 June 2015.

A lawyer for the South African government confirmed on Monday afternoon that Mr. Bashir had left, and Sudan's minister for information told reporters that Mr. Bashir was aboard the plane and was expected back in Khartoum, the Sudanese capital, on Monday evening. Sudanese officials had given conflicting information about his whereabouts during his two-day visit here, claiming at one point on Sunday that he had already left South Africa.

A South African High Court on Sunday issued an order calling for the authorities to prevent Mr. Bashir from leaving the country because of the charges against him at the International Criminal Court.

On Monday, after receiving confirmation of Mr. Bashir's departure, the high court said that the government had violated its order — and South Africa's Constitution — by failing to arrest Mr. Bashir. The judge ordered the government to explain the circumstances behind Mr. Bashir's departure.

The case has pitted the International Criminal Court against the South African government, which had argued that heads of state had immunity while attending the African Union meeting. It is also being watched as a test of the reach of the criminal court, which lacks a police force to enforce its rulings and must rely on diplomatic pressure and the cooperation of nations to ensure that its rulings or indictments are enforced.

On Monday, the United Nations secretary general, Ban Ki-moon, added his voice to the debate, saying that the International Criminal Court's warrant must be respected by countries that have agreed to its statutes.

"The International Criminal Court's warrant for the arrest of President al-Bashir on charges of crimes against humanity and war crimes is a matter I take extremely seriously," he said in Geneva, according to news agencies.

In the face of recalcitrance by member states to cooperate and Sudan's failure to extradite Mr. Bashir, the international court asked the United Nations Security Council in March to help it enforce the arrest warrant for Mr. Bashir. The Sudanese government has been the subject of a criminal investigation by the court for its actions during the conflict in Darfur, which has led to the deaths of hundreds of thousands of people and the displacement of millions.

In 2009, Mr. Bashir and three other senior officials were indicted on charges of war crimes and crimes against humanity. In 2010, the international court also charged Mr. Bashir with three counts of genocide.

However, the court, in The Hague, has struggled to carry out the indictment in the face of resistance, not just from Sudan, but also from African governments, which argue that the court has unfairly and disproportionately targeted leaders from Africa.

Sudan News Agency - Foreign Minister to Hold Press Conference today at 06:00 p.m. at Khartoum Airport³
15 June 2015

Khartoum, June 15 (SUNA)- The Foreign Minister, Prof. Ibrahim Ghandour, will hold a press conference at 06:00 p.m. today (Monday) at Khartoum Airport following return of the President of the Republic and the accompanying delegation from South Africa where he participated at the 25th Ordinary Summit of the African Union.

24 News - Failure to Arrest al-Bashir 'unconstitutional'⁴
15 June 2015, 15:49

The High Court in Pretoria has ruled that the failure to detain Sudan President Omar al-Bashir was inconsistent with the Constitution. Read on to see how the ruling unfolded.

The High Court in Pretoria has ruled that the failure to detain Sudan President Omar al-Bashir is inconsistent with the Constitution, and he must be detained pending a formal request from the ICC.

Judge President Dunstan Mlambo, along with Judge President Aubrey Ledwaba and Judge Hans Fabricius, will read their reasons for the ruling into the court record next week.

Advocate William Mokhari, for the government, then confirmed immediately that the State had reliable information that the Sudanese president had already left the country.

Mlambo ordered that an affidavit be filed, indicating exactly how al-Bashir was able to leave the country from Waterkloof Air Force base, despite the base having been served an interim order barring him from leaving.

³ Available at <http://suna-sd.net/new/suna/showNews/250840/en> last accessed 15 June 2015.

⁴ Available at <http://www.news24.com/SouthAfrica/News/LIVE-Court-to-hear-Al-Bashir-arrest-application-20150615> last accessed 15 June 2015.