

# **ANNEX F**

# **PUBLIC**

Supplementary Affidavit of Applicant - The Southern  
Africa Litigation Centre before the High Court of  
South Africa (North Gauteng High Court, Pretoria)

**IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH GAUTENG HIGH COURT, PRETORA)**

Case number:

In the matter between:

**THE SOUTHERN AFRICA LITIGATION  
CENTRE**

Applicant

and

**THE MINISTER OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT**

First Respondent

**THE DIRECTOR-GENERAL OF JUSTICE  
AND CONSTITUTIONAL DEVELOPMENT**

Second Respondent

**THE MINISTER OF SAFETY  
AND SECURITY**

Third Respondent

**THE DIRECTOR-GENERAL  
OF SAFETY AND SECURITY**

Fourth Respondent

**THE MINISTER OF INTERNATIONAL  
RELATIONS AND COOPERATION**

Fifth Respondent

**THE DIRECTOR-GENERAL OF INTERNATIONAL  
RELATIONS AND COOPERATION**

Sixth Respondent

**THE NATIONAL COMMISSIONER OF THE  
SOUTH AFRICAN POLICE SERVICE**

Seventh Respondent

**THE NATIONAL DIRECTOR OF PUBLIC**

*KAC*

**PROSECTIONS**

Eighth Respondent

**THE HEAD OF THE DIRECTORATE  
FOR PRIORITY CRIMES INVESTIGATION**

Ninth Respondent

**THE DIRECTOR OF THE PRIORITY CRIMES  
LITIGATION UNIT**

Tenth Respondent

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**SUPPLEMENTARY AFFIDAVIT**

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I, the undersigned

**KAAJAL RAMJATHAN-KEOGH**

do hereby make oath and say that:

**INTRODUCTION**

1. As a representative of the Applicant, the Southern Africa Litigation Centre (SALC), I file these further supplementary affidavit in order to put before the Court:
  - 1.1. Correspondence between the SALC and the Respondents on the issue subject to these proceedings.
  - 1.2. Further legal instruments and decisions pertaining to the immunity of attendees at this week's African Union Summit.

*KKA*

**CORRESPONDENCE**

2. On 21 May 2015, SALC addressed a letter to the second and sixth Respondents, the Acting National Director of Public Prosecutions and the Minister of Police, and the Chief State Law Advisor. SALC noted South Africa's international and domestic obligations to take appropriate actions to execute the warrant for President Bashir's arrest. Annexure is marked **KRK11**.
  
3. On 25 May 2015, SALC received a response from the Chief State Law Advisor in terms of which the letter of 21 May 2015 was acknowledged as received. It was further stated that copies had been transmitted to the second and eighth Respondents. Annexure is marked **KRK12**.
  
4. On Saturday 13 June 2015, the SALC addressed a letter to the first to tenth Respondents. SALC noted reports that Sudanese President Omar Al Bashir ("President Bashir") was scheduled to speak at the African Union (AU) Summit and expected to arrive in South Africa on 13 June 2015. SALC noted the international arrest warrant against President Bashir and South Africa's obligations under international and domestic law to arrest him should he be present in South Africa. SALC further informed the Respondents that it intended to launch an urgent application to ensure compliance with these obligations and requested a response on an urgent basis. Annexure is marked **KRK13**.

*KRK*

5. Confirmation that this letter was sent and received electronically is noted in an Affidavit of a member of SALC staff, Caroline James. Annexure is marked **KRK14**.
6. SALC has received no response to this letter.

#### **THE GOVERNMENT GAZETTE NOTICE**

7. On 5 June 2015, the fifth respondent, the Minister of International Relations and Cooperation, published Government Notice No 470, which records an agreement reached with the Commission of the African Union on the Material and Technical Organisation of the Meeting of, among others, the 27<sup>th</sup> Ordinary Session of the Executive Council of the African Union, to afford certain personal diplomatic immunity and privileges. It is attached as **KRK15**.
8. The applicant will argue that, on its terms, the Notice does not grant President Bashir immunity from South Africa's enforcement of the arrest warrant.
9. If, however, this Court determines that it does, then the applicant will contend that it is unlawful and invalid to that extent, and will move to have it set aside.
10. It has also come to our attention that the ICC's Pre-Trial Chamber last night handed down an urgent judgment (ICC-02/05-01/09), confirming that South Africa is under an international obligation on South Africa to arrest President Bashir. It also confirms that President Bashir does not

*KRK*

enjoy any immunity from such arrest under international law. The judgment is attached marked **KRK 16**.

## **CONCLUSION**

11. The applicant accordingly persists in seeking the relief set out in the Notice of Motion.



**KAAJAL RAMJATHAN-KEOGH**

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me at Pretoria on this the \_\_\_\_<sup>th</sup> day of June 2015, the regulations contained in Government Notice No R1258 of 21 July 1972 (as amended) having been complied with.

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**COMMISSIONER OF OATHS**

**Full**

**names**.....

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**Business**

**address**.....

**Capacity**.....**Area**.....

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