

ANNEXURE “Krk 5”

(SALC'S 13 JUNE 2015 LETTER TO GOVERNMENT REQUESTING CLARIFICATION ON
STEPS TAKEN EFFECT ARREST)

CITED IN SOUTHERN AFRICA LITIGATION CENTRE'S

REQUEST FOR LEAVE TO SUBMIT *AMICUS CURIAE*

IN

THE PROSECUTOR vs. OMAR HASSAN AHMAD AL BASHIR, NO. ICC-02/05-01/09

(Decision Convening a Public Hearing for the Purposes of a determination under article
87(7) of the Statute with respect to the Republic of South Africa)

KRK13

SOUTHERN AFRICA LITIGATION CENTRE

13 June 2015

To:

THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT

THE DIRECTOR-GENERAL OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT

THE MINISTER OF SAFETY
AND SECURITY

THE DIRECTOR-GENERAL
OF SAFETY AND SECURITY

THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION

THE DIRECTOR-GENERAL OF INTERNATIONAL
RELATIONS AND COOPERATION

THE NATIONAL COMMISSIONER OF THE
SOUTH AFRICAN POLICE SERVICE

THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS

THE HEAD OF THE DIRECTORATE
FOR PRIORITY CRIMES INVESTIGATION

THE DIRECTOR OF THE PRIORITY CRIMES
LITIGATION UNIT

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www.southernafricallitigationcentre.org

an initiative of the International Bar Association and the Open Society Initiative of Southern Africa
NPO 138-655

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Dear Sirs and Madams,

Re: URGENT: Attendance of Sudanese President Omar Al Bashir at the African Union Summit in Johannesburg, South Africa

The Southern Africa Litigation Centre (SALC) has seen news reports that the Sudanese President, Omar Al Bashir is on the programme to speak at the African Union Summit (AU Summit), and has received information that President Bashir boarded an aeroplane in Khartoum at 11h30 local time (10h30 South African time), for Johannesburg. President Bashir is therefore expected to arrive in South Africa between 16h30 and 17h00 on 13 June 2015.

President Bashir is the subject of two arrest warrants issued by the International Criminal Court (the ICC) in The Hague, the Netherlands, for war crimes, crimes against humanity, and genocide. South Africa, as a signatory to the Rome Statute of the International Criminal Court (the Rome Statute), has an obligation to assist the ICC. In addition, South Africa has adopted legislation to domesticate the Rome Statute, the Implementation of the Rome Statute of the International Criminal Court Act, 27 of 2002 (Implementation Act) which requires that South Africa cooperate with the ICC. This cooperation includes arresting and detaining fugitives from the ICC to ensure that individuals who have been indicted by the ICC are transported to the Netherlands to stand trial.

Consequently, South Africa would have an obligation, under international and domestic law, to arrest President Bashir should he be present in South Africa. Section 9 of the Implementation Act sets out the procedure to be followed when a fugitive is present in the country. In this regard we refer to our letter of the 21st May which alerted you to these concerns. <http://www.southernafricalitigationcentre.org/2015/05/21/salc-reminds-sa-government-president-bashir-must-be-arrested/>

SALC recognises that when President Bashir was due to attend President Jacob Zuma's inauguration in 2009, the then Director-General of International Relations and Cooperation confirmed that the South African authorities would arrest President Bashir if he arrived in South Africa. At that stage, the Sudanese leader opted not to travel to South Africa.

We applaud this uncompromising stance, and urge that the South African government ensure that President Bashir is arrested if he does arrive in the country this weekend.

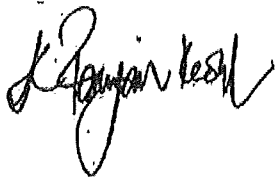
KLK

We are also aware that the African Union has taken a decision not to cooperate with the International Criminal Court and are concerned that South Africa may not take steps to arrest and detain this individual on his arrival in the country.

SALC informs you that we intend to launch an urgent application in the High Court to ensure that the authorities do comply with their obligations under the Rome Statute as well as the Implementation Act to arrest and detain President Bashir pending the application for the domestication of the ICC arrest warrants. We request that you inform us what steps you are taking to effect the arrest.

We realise that the AU Summit is currently in session but in view of the fact that President Bashir may only be in the country for a very short time, we require your urgent response to this letter. Should we fail to receive an urgent response we will approach a court to seek urgent relief.

Yours faithfully,



Kaajal Ramjathan-Keogh
Executive Director

kaajalr@salc.org.za

084 514 8039

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KRK14

**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

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