

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

CASE NUMBER: 27740/15

In the matter between:

THE SOUTH 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 POLICE THIRD RESPONDENT**~~

THE COMMISSIONER OF POLICE FOURTH RESPONDENT

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION FIFTH RESPONDENT**

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

THE MINISTER OF HOME AFFAIRS SEVENTH RESPONDENT

**THE DIRECTOR-GENERAL OF
HOME AFFAIRS EIGHTH RESPONDENT**

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

**THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS TENTH RESPONDENT**

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

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

FILING NOTICE

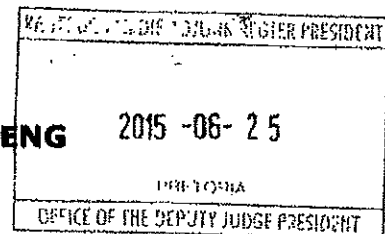
DOCUMENT: RESPONDENTS' EXPLANATORY AFFIDAVIT

ON ROLL: NOT ON THE ROLL - REQUESTED BY THE COURT

FILED BY:


THE STATE ATTORNEY, PRETORIA
Attorneys for Respondents
316 Thabo Sehume Street
Cnr Francis Baard and
Thabo Sehume Streets
Private Bag x91
PRETORIA
Tel: (012) 309 1563
Fax: 086 507 0909
E-mail: eturner@justice.gov.za
Ref: Dr J Meier/3604/2015/Z49

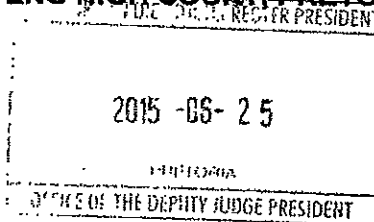
**AND: THE REGISTRAR OF THE NORTH GAUTENG
HIGH COURT, PRETORIA**



**AND TO: WEBBER WENTZEL
C/O BERNHARD VAN DER HOVEN**

Per email: maxime.gunzenhauser@webberwentzel.com

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG-HIGH COURT, PRETORIA)



CASE NO: 27740/15

In the matter between:

THE SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

**THE MINISTER OF JUSTICE &
CONSTITUTIONAL DEVELOPMENT**

1ST Respondent

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

2ND Respondent

THE MINISTER OF POLICE

3RD Respondent

THE DIRECTOR GENERAL OF POLICE

4TH Respondent

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION**

5TH Respondent

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

6TH Respondent

MINISTER OF HOME AFFAIRS

7TH Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

8TH Respondent

SOUTH AFRICAN POLICE SERVICE

9TH Respondent

**THE NATIONAL DIRECTOR PUBLIC
PROSECUTIONS**

10TH Respondent

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

11TH Respondent

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

12TH Respondent

EXPLANATORY AFFIDAVIT

MA

SS

I, the undersigned,

MKUSELI APLENI

do hereby make oath and say:

1. I am the Director General of the Department of Home Affairs. I am duly authorized to depose to this explanatory affidavit on behalf of all the Respondents.
2. The facts contained herein are within my own personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.

INTRODUCTION

3. The full bench of the above Honourable Court presided over an urgent application on 15 June 2015 which was brought by the Applicant and made an order at approximately 15h30 declaring the conduct of the Respondents to the extent that they have failed to take steps to arrest President Omar Hassan Ahmed Al-Bashir ("*President Bashir*") to be inconsistent with the Constitution of the Republic and invalid, and to take all reasonable steps to prepare to arrest President Bashir without a warrant.
4. Shortly before this order was made counsel for the Respondents ("Advocate William Mokhari SC") had been informed by Government that President

MR
SS

Bashir had departed from the Republic of South Africa (*"the Republic"*). The Minister of State Security and the Minister in the Presidency had informed counsel for the Respondents that the circumstances under which President Bashir left the Republic would be fully investigated. This message was communicated to the full Court shortly after the order was made. Counsel for the Applicant had requested the Court to direct the Respondents to file an affidavit explaining the circumstances of the departure of President Bashir from the Republic. The Court directed the Respondents to file an affidavit within 7 days explaining the departure of President Bashir dealing with how, when, the time, and the port of entry or exit which was used for the departure.

THE INTERIM COURT ORDER

5. On Sunday, 14 June 2015, Fabricius J, made an interim order prohibiting President Bashir from leaving the Republic until a final order was made, and directing the Respondents to take all necessary steps to prevent him from doing so. I was also ordered in my capacity as the Director General of the Department of Home Affairs to effect service of the order on the officials in charge of each and every port of entry or exit and to provide the Applicant with proof of such service and the names of the persons who received service of the Court order at each port of entry or exit.

6. I complied with the Court order by ensuring that the order was served on all our 72 ports of entry or exit in the Republic and received proof of confirmation of receipt from these ports of entry or exit. By the time the proceedings


85

commenced before the full Court on 15 June 2015 at approximately 11h40, only 2 ports of entry or exit had not yet confirmed acknowledgment of receipt of the Court order. However by the end of the proceedings on that day, the remaining ports of entry or exit, which are in any event remote ports, had also confirmed receipt of the Court order. The Court order to that effect had been fully complied with by my Department. Proof of service accompanied by an affidavit was also served on the Applicant's legal representatives in Court. A copy of the affidavit together with the final proof of full service on all 72 ports of entry is annexed hereto marked "MA1".

-
7. At approximately 11h55 there were media reports that President Bashir was or had departed from Waterkloof Air Force Base. I made inquiries from my immigration officials who were on duty at the time at Waterkloof Air Force Base to verify the information. The immigration officials on duty informed me that the passport of President Bashir was not part of the passports that were handed to immigration for processing of the persons that were on board the flight.

**INFORMATION GATHERING AND VERIFICATION BY THE DEPARTMENT
OF HOME AFFAIRS**

8. The Department of Home Affairs' internal investigation has revealed that on 15 June 2015 at approximately 11h50, a Sudanese Aircraft with flight number SUDAN01 departed from Waterkloof Air Force Base. As I have stated above, President Bashir's passport was not part of the passports processed.



RE

9. First, I deem it appropriate to explain the process that is normally followed in terms of the general protocols used for departures of delegations in terms of multilateral events such as this. I am informed that a visiting delegation, be it for bilateral or multilateral reasons are accorded specific courtesies. These include amongst others accommodation, transportation, VIP protection and protocol officers. The responsibility of the protocol officer from the Department of International Relations and Cooperation ("DIRCO") is to facilitate the official schedule and itinerary of the visiting dignitary. The South African Police Service ("SAPS") provides static and mobile protection to the said dignitary.

Whatever DIRCO and SAPS do in moving the visiting dignitary will be informed by the communication received by them from the visiting delegation. DIRCO is informed by a visiting delegation whenever there is a need for the delegation to move from one place to another. DIRCO then informs the SAPS of this request in order to deal with the security arrangements accorded to the visiting delegation.

10. I deem it prudent to further explain the role of the immigration officers of the Department of Home Affairs in providing immigration services at Waterkloof Air Force Base. Waterkloof Air Force Base is not a normal port of entry or exit. The Waterkloof Air Force Base is under the command and control of the Department of Defence and it is usually utilised to facilitate the arrival and departure of visiting Heads of State and Government, due to its strictly controlled air space. As a result of the aforesaid, immigration services are not permanently stationed at Waterkloof Air Force Base, but are required by the

MA

Defence Force to attend and perform immigration functions at the said base as and when the need arise.

11. The procedure that is followed in clearing the passengers who depart is as follows:
 - 11.1 Based on the standing processes and procedures, a flight is declared either a normal flight or a VIP flight. As to what procedure is followed in declaring a flight as either normal or VIP, immigration officers do not play a role. This is the function of the Department of Defence. The immigration officers are only informed by base operations at Waterkloof Air Force Base about the arrival or departure of the normal flight or a VIP flight and once informed, the immigration officers are required to be present in order to perform their immigration duties. The immigration officials are not permanently stationed at Waterkloof Air Force Base and are only present at Waterkloof Air Force Base on request.
 - 11.2 In the event of flights that have been declared VIP flights at Waterkloof Air Force Base, the passports of all the passengers on board the flight (except those of the crew), are normally presented to the Immigration Officer by representatives of the foreign State of the VIP flight, accompanied by a Protocol Officer from DIRCO.
 - 11.3 As already stated above, the Protocol Officer from the DIRCO accompanies representatives of the foreign State of the VIP flight to present the passports to the Immigration Officer on duty at that time for processing. Neither the

Handwritten signature and initials, possibly 'MM' or 'MP', with a small mark below it.

Immigration Officer nor the DIRCO protocol officers are provided with a passenger list.

- 11.4 It is pertinent to note that the passengers on a VIP flight do not personally appear before the Immigration Officer on duty. The Immigration Officer checks the passports for applicable endorsements, visas etc, whereafter the passports are scanned and stamped without any further delay.
- 11.5 Thereupon, the Immigration Officer hands the passports back to the representatives of the foreign State of the VIP flight in the presence of the Protocol Officer from the DIRCO. The VIP flight is then considered cleared for departure from an immigration point of view.
-

DEPARTURE INFORMATION GATHERED

12. I have been informed that the aircraft of the Sudanese President ("SUDAN01") was located at the Waterkloof Air Force Base for security reasons and refuelling. I was further informed that the same procedure stated above has been adhered to in respect of Sudanese flight SUDAN01 on 15 June 2015.
- 12.1 A representative of the Sudanese delegation contacted the DIRCO Protocol officer attached to the delegation indicating that there is a need for the delegation to move from the Sandton precinct venue to Waterkloof Air Force Base. The DIRCO protocol officer consequently communicated with SAPS Protection Services in this regard. SAPS Protection Services then made the


SS

requisite security arrangements to accompany the delegation to Waterkloof Air Force Base. The Venue Operating Centre was activated and the South African Air Force ensured the processing of the delegation and clearing of the aircraft at Waterkloof Air Force Base by all relevant authorities.

- 12.2 Two representatives of Sudan, in the company of the Protocol Officer from DIRCO handed a set of passports to the DHA immigration officers.
- 12.3 I should at this stage interpose and confirm that the officials of the Department of Home Affairs at the Waterkloof Air Force Base were at all relevant times ~~hereto aware of the court order handed down by this Honourable Court on 14 June 2015.~~
- 12.4 After receipt of the passports, the Immigration Officer first of all checked to determine whether any of the passports belonged to President Bashir. The Immigration Officer concluded that the passport of President Bashir was not amongst the passports provided. Thereafter the Immigration Officer further checked the passports and noted that all the passports were endorsed for departure on 15 June 2015. I annexed hereto marked "MA2" a printout report from the Enhanced Movement Control System, which clearly indicates all the names and relevant details of all the passports scanned and stamped by the immigration officer on 15 June 2015.
- 12.5 The flight thereafter left South Africa.

MA
ce

CONCLUSION

13. It would therefore appear from the above that President Bashir departed from the Republic without his passport being presented to the Immigration Officer by the two Sudanese representatives who was accompanied by the Protocol Officer of DIRCO. The latter contention is fortified by the fact that verification on the passport details of President Bashir against the Movement Control System of the Department of Home Affairs reveals that President Bashir indeed entered the Republic of South Africa but that there is no record of him leaving the Republic.



DEPONENT

I CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to, before me, at PRETORIA..... on this the 25 day of **JUNE 2015**, the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended) and Government Notice No. R.1648 dated 19 August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

SAMUEL BELLO RUMODI
0458806-1: LIEUTENANT
231 WATERHILL
FRANK BROAD STREET
PRETORIA
0001

2015 JUN 25 15:15

Annexure "MA1"

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

In the matter between:

CASE NUMBER **277401**

THE SOUTH 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 POLICE

THIRD RESPONDENT

THE COMMISSIONER OF POLICE

FOURTH RESPONDENT

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION**

FIFTH RESPONDENT

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

SIXTH RESPONDENT

THE MINISTER OF HOME AFFAIRS

SEVENTH RESPONDENT

**THE DIRECTOR-GENERAL OF
HOME AFFAIRS**

EIGHTH RESPONDENT

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

NINTH RESPONDENT

**THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS**

TENTH RESPONDENT

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

ELEVENTH RESPONDENT

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

TWELFTH RESPONDENT

(MA)

(MA)

(MA)

SUPPORTING AFFIDAVIT

I, the undersigned,

MKUSELI APLENI

do hereby make oath and state as follows:

1.



~~I am the Director-General of the Department of Home Affairs (Seventh Respondent), with offices situated at 230 Johannes Ramakhoase Street, Hallmark Building, Pretoria, Gauteng.~~

2.

The facts contained in this affidavit are within my own personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.

3.

I confirm that I have perused the Court order granted by this Court on 14 June 2015. As a result of prayer 2 of the order granted on 14 June 2015, I have endeavoured to serve the said order on all the designated ports of entry in the Republic of South Africa. There are a total of 72 designated ports of entries and I confirm that I caused the order to be either e-



ce

mailed, faxed to the officials in charge of all 72 designated ports of entry. In order to avoid prolixity, I do not attach all the confirmation documentation to this affidavit. However, I will have copies of the said documentation available at Court should perusal thereof be required by this Court.

4.



Accordingly and in order to demonstrate the above, I have caused a list of all the designated ports of entry to be prepared, together with the names of the office manager of each and every designated port of entry, its

location within all the provinces, port confirmation of receipt of the order and the specific person who confirms the latter. I refer the Court to a copy of this list annexed hereto as **Annexure "A"**.

5.

A perusal of **Annexure "A"** will indicate that at the time of deposing to this affidavit, a total of three (3) designated ports of entry have not yet acknowledge receipt of the court order. These designated ports of entry are as follows:

- 5.1 Makhaleng Bridge – Free State Province; and
- 5.2 Monontsha Pass – Free State Province.

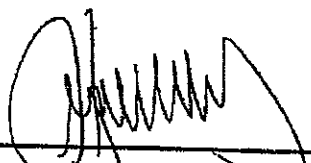
6.

Accordingly, I am still awaiting confirmation of the abovementioned 2 designated ports of entry. I will however immediately inform the Court as soon as confirmation is received.



Deponent

Signed and sworn before me at PRETORIA on this 15 day of JUNE 2015 after the Deponent declared that he is familiar with the contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath. There has been compliance with the requirements of the Regulations contained in Government Gazette R1258, dated 21 July 1972 (as amended).



COMMISSIONER OF OATHS

FULL NAMES: *Gerit Holiday*
CAPACITY: *Major*
ADDRESS: *SAPS Head Office
Financial Services
Pretorius Str. 231*

DEEL 1 VAN DIE SWER... VAN DIE SWER... POLISIEDIENS
NATIONALE FINANSIES
15 JUN 2015
PRIVAATSAKDEURKOPPE DAG X04
THE NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE



"A"

PORT CONTROL OFFICE	OFFICE MANAGER	COURT ORDER SEND	PORT CONFIRMED RECEIPT OF ACKNOWLEDGEMENT	CONFIRMED BY
LIMPOPO				
BEIT BRIDGE	ELVIS MAVHUNGU	Yes	Yes	A Makhado
GIRYONDO	PORTIA SEKATANE	Yes	Yes	Tsakani Yvonne Hlungwami
GROBLERS BRIDGE	RICHARD EIBERG (ASD)	Yes	Yes	Richard Eiberg
PAFUJI	AEFHELI MOLAUDZI (CIO)	Yes	Yes	M T Nyambi
PLATJAN	MR ANTON WEPENAR	Yes	Yes	Anton Wepener
PONTDRIFT	MS MOTSOWA SEWELA (ACTING)	Yes	Yes	Shai Phalane
STOCKPOORT	MR FREDDI TSHIFARO (CIO)	Yes	Yes	R F Tshifaro
ZANZIBAR	MR SENARE MABITLA	Yes	Yes	Molalelo Seabela and Anton Wepener
MPUMALANGA				
BOTHASHOOP	MS BONNIE NKOSIE (CIO)	Yes	Yes	Clement Guma
EMAHLATHINI	MS JACOBA WHITFIELD (CIO)	Yes	Yes	Jacoba Whitfield
JEPPE REEF	MR MAMKELI PIKE (CIO)	Yes	Yes	M T Sambo
JOSEFDAL	ELIZABETH MOILA	Yes	Yes	Elie Mashabane
LEBOMBO	MS PATHEKA VIKWA (DD)	Yes	Yes	Adolf Stassen
MAHAMBA	MR SIMON MANAKA (CIO)	Yes	Yes	Simon Manaka
MANANGA	MR HAZEKIEL MADONSELA (CIO)	Yes	Yes	Mananga
NERSTON	MS SABELO NDEBELE (CIO)	Yes	Yes	Sabelo Mhdebela
OSHOEK	MR BODWANA NKOSI (CIO)	Yes	Yes	Pontsho Mopipi
WAVERLY	J MASEKO	Yes	Yes	Jabulane Maseko
NORTH WEST				
BRAY	MR ENOCH RASEDILE (CIO)	Yes	Yes	Enoch Rasedile
DERDEPOORT	MR JACK TABAMPE (CIO)	Yes	Yes	Alec More
KOPFONTEIN	MR LUSINDISO MATYUMZA (ASD)	Yes	Yes	Kholiwe Soui
MOKGOBISTAD	AGATHA KGOSILENTSWE	Yes	Yes	Agatha Kgosilentswe
MOKOPONG	MR MODISAOTSILE NKOANE (CIO)	Yes	Yes	Thys Eksteen
RAMATLABAMA	KGALALELO MOKGATUTSI	Yes	Yes	Kgalalelo Mogatusi
SKILPADSHEK	AGNES PELEFU	Yes	Yes	Violet Dire / Agnes Phelefu
SWARTKOPFONTEIN	ROCHERDT MOSINGA	Yes	Yes	N J Dingalo

(Handwritten signature)

(Handwritten signature)




CS

NORTHERN CAPE			
ALEXANDRA BAY	MS NARISA KYSTER (CIO)	Yes	Nerissa Kayster
GEMSBOK	MIR ANDY WILLIAMS	Yes	Sylvia van Zyl
MACCATHYS RUST	NAOMI WITKOEIE	Yes	Ishmail Dikolanyane
MIDDELPUTS	ZAMILE MBULWANE	Yes	C Mbulwane
NAKOP	DORCUS MASHIANE (HAPPY)	Yes	Dorcus Mashiane
ONSEEPKANS	MR RICHARD JULIE (CIO)	Yes	Brenton Faro
RIETFONTEIN	MS HANLIE DU PLESSIS (CIO)	Yes	Catherine Bok
SENDELINGSDRIFT	MS ANNA ENGELBRECHT (CIO)	Yes	Anna Mouton
TWEEREVIEREN	MR COENRAAD VANROOI (CIO)	Yes	Conraad van Rooyen
VIOOLSDRIFT	MS VIRGINIA VANWYK (ASD)	Yes	Neels Fredericks
FREE STATE			
CALEDONSPOORT	MR ITUMELENG NTSANE	Yes	MJ Mthimkhulu
FICKSBURG BRIDGE	MS CYNTHIA HARDNICK	Yes	Cynthia Hardnick
MAKHALENGBRIDGE	MR PULENG NDIMA (CIO)	Yes	Lucas Mokoena
MASERU BRIDGE	MR TSHOLO MOETI (ASD)	Yes	Ntswaki Masia
MONONTSHA PASS	KUTUMANE MOKETE (CIO)	Yes	Cynthia Hardnick
PEKA BRIDGE	MR SEEKETSA MOKOENA (CIO)	Yes	Koos Molele
SEPHAPHUGATE	MR TEBOGO ZONDO (CIO)	Yes	Danny Mphale
VAN ROOYENSHEK	MOSES MAFLUYA	Yes	Moses Mafuya
EASTERN CAPE			
ONGELUKSNEK (SAPS)	SAPS	Yes	Telephonically informed by Paul Kok and faxed
QACHASNEK	MR PAUL KOK	Yes	Yes
RAMETSELISO GATE (SAPS)	SAPS	Yes	Telephonically informed by Paul Kok and faxed
TELEBRIDGE	MR LUNGILE TOLE (CIO)	Yes	Yes
BOESMANSNEK (SAPS)	CAPT. BOTHA	Yes	Yes confirmation received via Port Manager Office
GOLELA	MR FLIP VAN WYK	Yes	Yes
KOSIBAY	MR MASUKU	Yes	Yes
ONVERWACHT	MR VUSI TSHETE	Yes	Yes
KWAZULU NATAL			
BOESMANSNEK (SAPS)	CAPT. BOTHA	Yes	Yes confirmation received via Port Manager Office
GOLELA	MR FLIP VAN WYK	Yes	Yes
KOSIBAY	MR MASUKU	Yes	Yes
ONVERWACHT	MR VUSI TSHETE	Yes	Yes



(Handwritten signatures and initials)

SANI PASS (SAPS)	CAPT. DLAMINI	Yes	Yes confirmation received via Port Manager Office	Capt Dlamini (SAPS) & Inspectorate Doncabe
AIRPORTS				
BLOEMFONTEIN AIRPORT (BRAMFISHER INTERNATIONAL)	MS ESMARALDA BARNES	Yes		Fikile Salemane
CAPE TOWN INTERNATIONAL	MR ALEX KEMP	Yes	Yes	Juanita Britz
GATEWAY AIRPORT	MS ILZE DU BRUIN	Yes	Yes	M de Bruin
KINGSHAKA AIRPORT	MS CHARMAINE PAULSEN	Yes	Yes	Charmaine Paulsen
KRUGER MPUMALANGA AIRPORT	MR KELMON MAHLAKE	Yes	Yes	Kelmon Mahlake
LANSERIA AIRPORT	MS JOYCE NCYLO	Yes	Yes	Themba Mgabe
OR TAMBO INT. AIRPORT	MR HEINRICH DE VOS (DD)	Yes	Yes	Pulane Kethojwe
PILANESBURG AIRPORT	MR SHIKO GEORGE KHOELE	Yes	Yes	Shiko Khoele
PORT ELIZABETH AIRPORT	MR MARIUS SCHOLTZ	Yes	Yes	Marius Marx
UPINGTON INTERNATIONAL	MR NONGO DIBEGE	Yes	Yes	Cornelia Mienties
WATERKLOOF	Ms Baba Mlenzana & Mr Pitso Molefo	Yes	Yes	Baba Mlenzana
HARBOURS:				
CAPE TOWN HARBOUR	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson
COEGA (NGQURA)	MR MARIUS SCHOLTZ	Yes	Yes	Marius Marx
DURBAN HARBOUR	MR VANU	Yes	Yes	Vanu Naidoo
EASTLONDON	MR AUBREY MFUNZANA	Yes	Yes	Calvin Murray
MOSELBAY	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson
PORT ELIZABETH	MARIUS SCHOLTZ	Yes	Yes	Marius Marx
RICHARDSBAY	MR MICHAEL SARILLA (MUZI)	Yes	Yes	Dauw Fourie
SALDHANABAY	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson

PORT CONTROL OFFICE	OFFICE MANAGER	COURT ORDER SEND	PORT CONFIRMED RECEIPT OF ACKNOWLEDGEMENT	CONFIRMED BY
LIMPOPO				
BEIT BRIDGE	ELVIS MAVHUNGU	Yes	Yes	A Makhado
GIRYONDO	PORTIA SEKATANE	Yes	Yes	Tsakani Yvonne Hlungwani
GROBLERS BRIDGE	RICHARD EIBERG (ASD)	Yes	Yes	Richard Elberg
PAFURI	AEFHELI MOLAUDZI (CIO)	Yes	Yes	M T Nyambi
PLATJAN	MR ANTON WEPENAR	Yes	Yes	Anton Wepener
PONTDRIFT	MS MOTSOWA SEWELA (ACTING)	Yes	Yes	Shai Phalane
STOCKPOORT	MR FREDDI TSHIFARO (CIO)	Yes	Yes	R F Tshifaro
ZANZIBAR	MR SENARE MABITLA	Yes	Yes	Molalelo Seabela and Anton Wepener
MPUMALANGA				
BOTHASHOOP	MS BONNIE NKOSIE (CIO)	Yes	Yes	Clement Guma
EMAHLATHINI	MS JACOBA WHITFIELD (CIO)	Yes	Yes	Jacoba Whitfield
JEPPE'S REEF	MR MAMKELI PIKE (CIO)	Yes	Yes	M T Sambo
JOSEFDAL	ELIZABETH MOILA	Yes	Yes	Elle Mashabane
LEBOMBO	MS PATHEKA VIKWA (DD)	Yes	Yes	Adolf Stassen
MAHAMBA	MR SIMON MANAKA (CIO)	Yes	Yes	Simon Manaka
MANANGA	MR HAZEKIEL MADONSELA (CIO)	Yes	Yes	Mananga
NERSTON	MS SABELO NDEBELE (CIO)	Yes	Yes	Sabelo Mrdebele
OSHOEK	MR BODWANA NKOSI (CIO)	Yes	Yes	Pontsho Moptipi
WAVERLY	J MASEKO	Yes	Yes	Jabulane Maseko
NORTH WEST				
BRAY	MR ENOCH RASEDILE (CIO)	yes	yes	Enoch Rasedile
DERDEPOORT	MR JACK TABAMPE (CIO)	Yes	Yes	Alec More
KOPFONTEIN	MR LUSINDISO MATYUMZA (ASD)	Yes	Yes	Kholiwe Soul
MOKGOBISTAD	AGATHA KGOSILENTSWE	Yes	Yes	Agatha Kgosilentswe
MOKOPONG	MR MODISAOTSILE NKOANE (CIO)	Yes	Yes	Thys Eksteen
RAMATLABAMA	KGALALELO MOKGATUTSI	Yes	Yes	Kgalalelo Mogatusi
SKILPADSHEK	AGNES PELEFU	Yes	Yes	Violet Dire / Agnes Phelefu
SWARTKOPFONTEIN	ROCHERDT MOSINGA	Yes	Yes	N J Dingato




  cc 

NORTHERN CAPE		Yes	
ALEXANDRA BAY	MS NARISA KYSTER (CIO)	Yes	Nerissa Kayster
GEMSBOK	MR ANDY WILLIAMS	Yes	Sylvia van Zyl
MACCATHYS RUST	NAOMI WITKOEIE	Yes	Ishmail Dikolanyane
MIDDELPUTS	ZAMILE MBULWANE	Yes	C Mabuswane
NAKOP	DORCUS MASHIANE (HAPPY)	Yes	Dorcus Mashiane
ONSEEPKANS	MR RICHARD JULIE (CIO)	Yes	Brenton Faro
RIETFontein	MS HANLIE DU PLESSIS (CIO)	Yes	Catherine Bok
SENDELINGSDRIFT	MS ANNA ENGELBRECHT (CIO)	Yes	Anna Mouton
TWEEREVEREN	MR COENRAAD VANROOI (CIO)	Yes	Conraad van Rooyen
VIOOLSDRIFT	MS VIRGINIA VANWYK (ASD)	Yes	Neels Fredericks
FREE STATE		Yes	
CALEDONSPOORT	MR ITUMELENG NTSANE	Yes	MJ Mhimkhulu
FICKSBURG BRIDGE	MS CYNTHIA HARDNICK	Yes	Cynthia Hardnick
MAKHALENGBRIDGE	MR PULENG NDIMA (CIO)	Yes	Lucas Mokoena
MASERU BRIDGE	MR TSHOLO MOETI (ASD)	Yes	Ntswaki Masia
MONONTSHA PASS	KUTUMANE MOKETE (CIO)	Yes	Cynthia Hardnick
PEKA BRIDGE	MR SEEKETSA MOKOENA (CIO)	Yes	Koos Molete
SEPHAPUGATE	MR TEBOGO ZONDO (CIO)	Yes	Danny Mphahle
VAN ROOYENSHEK	MOSES MAFUYA	Yes	Moses Mafuya
EASTERN CAPE		Yes	
ONGELIJSNEK (SAPS)	SAPS	Yes	Telephonically informed by Paul Kok and faxed
QACHASNEK	MR PAUL KOK	Yes	Yes
RAMETSELISO GATE (SAPS)	SAPS	Yes	Telephonically informed by Paul Kok and faxed
TELEBRIDGE	MR LUNGILE TOLE (CIO)	Yes	Yes
			F Gqekwa (SAPS)
			Paul Kok
			T Dala (SAPS)
			LG Tole
KWAZULU NATAL		Yes	
BOESMANSNEK (SAPS)	CAPT. BOTHA	Yes	Yes confirmation received via Port Manager Office
GOLELA	MR FLIP VAN WYK	Yes	Yes
KOSIBAY	MR MASUKU	Yes	Yes
ONVERWACHT	MR VUSI TSHETE	Yes	Yes
			Inspectorate Mkhwanazi
			Flip van Wyk
			M Masuku
			Vusumzi Tshete

 SS

SANJ PASS (SAPS)	CAPT. DLAMINI	Yes	Yes confirmation received via Port Manager Office	Capt Dlamini (SAPS) & Inspectorate Doncabe
AIRPORTS				
BLOEMFONTEIN AIRPORT (BRAMFISHER INTERNATIONAL)	MS ESMERALDA BARNES	Yes	Yes	Fikile Salemane
CAPE TOWN INTERNATIONAL	MR ALEX KEMP	Yes	Yes	Juanita Britz
GATEWAY AIRPORT	MS ILZE DU BRUIJN	Yes	Yes	M de Bruin
KINGSHAKA AIRPORT	MS CHARMAINE PAULSEN	Yes	Yes	Charmaine Paulsen
KRUGER MPUMALANGA AIRPORT	MR KELMON MAHLAKE	Yes	Yes	Kelmon Mahlake
LANSERIA AIRPORT	MS JOYCE NCYLO	Yes	Yes	Themba Mgabe
OR TAMBO INT. AIRPORT	MR HEINRICH DE VOS (DD)	Yes	Yes	Pulane Kethotlwe
PILANESBURG AIRPORT	MR SHIKO GEORGE KHOELE	Yes	Yes	Shiko Khoele
PORT ELIZABETH AIRPORT	MR MARIUS SCHOLTZ	Yes	Yes	Marius Marx
UPINGTON INTERNATIONAL	MR NONGO DIBEGE	Yes	Yes	Cornelia Mtenies
WATERKLOOF	Ms Baba Mlenzana & Mr Pitso Molefo	Yes	Yes	Baba Mlenzana
HARBOURS				
CAPE TOWN HARBOUR	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson
COEGA (NGQURA)	MR MARIUS SCHOLTZ	Yes	Yes	Marius Marx
DURBAN HARBOUR	MR VANU	Yes	Yes	Vanu Naidoo
EASTLONDON	MR AUBREY MFUNZANA	Yes	Yes	Calvin Murray
MOSELBAY	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson
PORT ELIZABETH	MARIUS SCHOLTZ	Yes	Yes	Marius Marx
RICHARDSBAY	MR MICHAEL SARILLA (MUZI)	Yes	Yes	Dauw Fourie
SALDHANABAY	MS CARLYN HEWITSON	Yes	Yes	Carlyn Hewitson

 SS

Ntokozo Mzoneli - Fwd: Movements at Waterkloof Airbase - 15 June 2015

From: Mkuseli Apleni
To: Ntokozo Mzoneli
Date: 2015/06/15 01:38 PM
Subject: Fwd: Movements at Waterkloof Airbase - 15 June 2015

>>> Baba Mlenzana 2015/06/15 01:24 PM >>>
Good Day DG

This is to confirm that as per the report of officials that are clearing passengers at Waterkloof Airforce Base,

- 14 June 2015 - P4 PIF - Palestine - 4 crew members and 11 passengers
- 15 June 2015 - SUDAN 01 - ST - TRA - 12 Crew members and 39 passengers.
- 15 June 2015 - Congo CNG001 - 9 crew and 27 passengers etd.

It must be noted that the person on the Court Order was not amongst these passengers.

Regards

Kind Regards
Baba Mlenzana
District Manager Operations - Tshwane
Cell: 083 343 1821
Tel: 012-542 2788
e-mail: baba.mlenzana@dha.gov.za



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

CASE NO: 27740/15

In the matter between:

THE SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

THE MINISTER OF JUSTICE &
CONSTITUTIONAL DEVELOPMENT

1ST Respondent

THE DIRECTOR-GENERAL OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT

2ND Respondent

THE MINISTER OF POLICE

3RD Respondent

THE DIRECTOR GENERAL OF POLICE

4TH Respondent

THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION

5TH Respondent

THE DIRECTOR-GENERAL OF INTERNATIONAL
RELATIONS AND COOPERATION

6TH Respondent

MINISTER OF HOME AFFAIRS

7TH Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

8TH Respondent

SOUTH AFRICAN POLICE SERVICE

9TH Respondent

THE NATIONAL DIRECTOR PUBLIC
PROSECUTIONS

10TH Respondent

THE HEAD OF THE DIRECTORATE
FOR PRIORITY CRIMES INVESTIGATION

11TH Respondent

THE DIRECTOR OF THE PRIORITY CRIMES
LITIGATION UNIT

12TH Respondent

CONFIRMATORY AFFIDAVIT



Handwritten signature, possibly 'J. M. ...', with initials 'SC' below it.

I, the undersigned,

SAMSON MAKHUDU GULUBE

do hereby make oath and say:

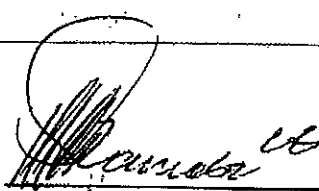
1. I am the Secretary for Defence and duly authorized to depose to this affidavit on behalf of the Department of Defence and Military Veterans.

2. The facts contained herein are within my own personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.

3. I have read the explanatory affidavit of MKUSELI APLENI, the Director General of the Department of Home Affairs, and I confirm the contents thereof insofar as it relates to the processes and protocols that were followed by members of the Defence Force in this matter.



DEPONENT

I CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to, before me, at PRETORIA..... on this the 25 day of JUNE 2015, the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended) and Government Notice No. R.1648 dated 19 August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

SAMUEL SEELO RATOBISA
0438806-1. LIEUTENANT
231 WATKINS
FRANCIS BARRD STREET
PRETORIA
0001





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

CASE NO: 27740/15

In the matter between:

THE SOUTHERN AFRICA LITIGATION CENTRE Applicant

and

**THE MINISTER OF JUSTICE &
CONSTITUTIONAL DEVELOPMENT** 1ST Respondent

~~**THE DIRECTOR-GENERAL OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT**~~ ~~2ND Respondent~~

THE MINISTER OF POLICE 3RD Respondent

THE DIRECTOR GENERAL OF POLICE 4TH Respondent

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION** 5TH Respondent

**THE DIRECTOR-GENERAL OF INTERNATIONAL
RELATIONS AND COOPERATION** 6TH Respondent

MINISTER OF HOME AFFAIRS 7TH Respondent

DIRECTOR GENERAL OF HOME AFFAIRS 8TH Respondent

SOUTH AFRICAN POLICE SERVICE 9TH Respondent

**THE NATIONAL DIRECTOR PUBLIC
PROSECUTIONS** 10TH Respondent

**THE HEAD OF THE DIRECTORATE
FOR PRIORITY CRIMES INVESTIGATION** 11TH Respondent

**THE DIRECTOR OF THE PRIORITY CRIMES
LITIGATION UNIT** 12TH Respondent

CONFIRMATORY AFFIDAVIT

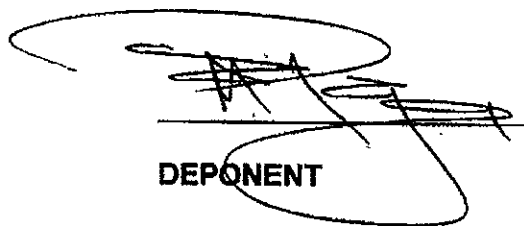
MVP
PP

I, the undersigned,

MANGWASHI VICTORIA PHIYEGA

do hereby make oath and say:

1. I am the National Commissioner of the South African Police Service ("SAPS") and duly authorized to depose to this affidavit on behalf of the Minister of Police (the Third Respondent in this matter).
2. The facts herein contained are within my personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.
3. I have read the explanatory affidavit of MKUSELI APLENI, the Director General of the Department of Home Affairs, and I confirm the contents thereof insofar as it relates to the processes and protocols that were followed by SAPS officials in this matter.



A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

DEPONENT

I CERTIFY that 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 25 day of JUNE 2015, the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended) and Government Notice No. R.1648 dated 19 August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

Samuel Belo Ramona
0458806-1 Lieutenant
231 WATCHUIS
FRANLIS BAARD STREET
PRETORIA
0001

MVP
RP

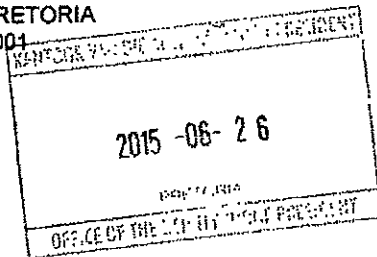
425



Office of the State Attorney Pretoria

PRIVATE BAG X 91
PRETORIA

0001



SALU BUILDING
316 THABO SEHUME STREET (ANDRIES)
CNR THABO SEHUME AND FRANCIS BAARD
STREET (SCHOEMAN)

TEL: (SWITCHBOARD): (012) 309 1500
(DIRECT LINE): (012) 309 1563
(SECRETARY): (012) 309 1520

FAX: (012) 309 1649/50
086 507 0909

DOCEX: 298

26 JUNE 2015

ENQ: JMEIER

MY REF: 3604/2015/Z49

EMAIL: sturner@justice.gov.za

YOUR REF: Case No: 27740/15

THE OFFICE OF THE DEPUTY JUDGE PRESIDENT
HIGH COURT
GAUTENG DIVISION
PRETORIA

BY HAND

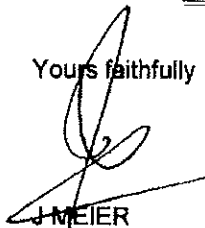
Dear Judges of the Full Bench

**RE: THE SOUTH AFRICA LITIGATION CENTRE / MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT AND 11 OTHERS**

1. Please find attached hereto the Confirmatory Affidavit of the Director General of the Department of International Relations and Co-Operation (the Sixth Respondent in the matter, hereinafter referred to as "DIRCO"), to be read in conjunction with the Explanatory Affidavit filed by the Respondents on 25 June 2015.
2. We herewith extend our sincere apologies for the late filing of the aforesaid Confirmatory Affidavit.
3. The Director General of DIRCO was only able to consider the contents of the Explanatory Affidavit after the Eighth Respondent deposed to the said affidavit, in order to verify the contents thereof.

4. We respectfully submit that it would not have appeared to be in the interest of justice to refuse the Sixth Respondent an opportunity as requested. We therefore had no other option but to afford him additional time in order to consider the contents of the Explanatory Affidavit as requested.
 5. We respectfully submit that it would not have appeared to be in the interest of justice to refuse the Sixth Respondent an opportunity as requested. We therefore had no other option but to afford him additional time in order to consider the contents of the Explanatory Affidavit as requested.
 6. However and in view of the fact that our office undertook to file the Explanatory Affidavit shortly after 12h00 on 25 June 2015, we proceeded to serve and file the said affidavit, without a confirmatory affidavit of DIRCO as same was not yet available at that stage.
-
7. We respectfully submit that the late filing of the relevant affidavit was neither willful nor deliberate and we request the Honourable Court to accept the Confirmatory Affidavit deposed to by the Sixth Respondent under these circumstances.

Yours faithfully



J. MEIER
FOR STATE ATTORNEY PRETORIA

2015 -06- 26

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

OFFICE OF THE DEPUTY CHIEF JUSTICE

CASE NUMBER: 27740/15

In the matter between:

THE SOUTH 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 POLICE

THIRD RESPONDENT

THE COMMISSIONER OF POLICE

FOURTH RESPONDENT

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION**

FIFTH RESPONDENT

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

SIXTH RESPONDENT

THE MINISTER OF HOME AFFAIRS

SEVENTH RESPONDENT

**THE DIRECTOR-GENERAL OF
HOME AFFAIRS**

EIGHTH RESPONDENT

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

NINTH RESPONDENT

**THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS**

TENTH RESPONDENT

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

ELEVENTH RESPONDENT

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


TWELFTH RESPONDENT

FILING NOTICE

DOCUMENT: 6TH RESPONDENT'S CONFIRMATORY AFFIDAVIT

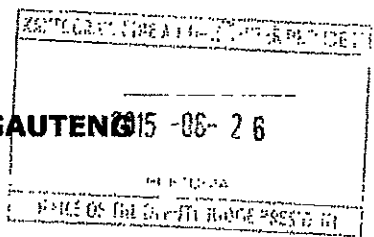
ON ROLL: NOT ON THE ROLL - REQUESTED BY THE COURT

FILED BY:



THE STATE ATTORNEY, PRETORIA
Attorneys for Respondents
316 Thabo Sehume Street
Cnr Francis Baard and
Thabo Sehume Streets
Private Bag x91
PRETORIA
Tel: (012) 309 1563
Fax: 086 507 0909
E-mail: eturner@justice.gov.za
Ref: Dr J Meier/3604/2015/249

AND: THE REGISTRAR OF THE NORTH GAUTENG HIGH COURT, PRETORIA



**AND TO: WEBBER WENTZEL
C/O BERNHARD VAN DER HOVEN**

Per email: maxine.gunzenhauser@webberwentzel.com

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

2015 -CS- 26
OFFICE OF THE DEPUTY ATTORNEY GENERAL

CASE NO: 27740/15

In the matter between:

THE SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

**THE MINISTER OF JUSTICE &
CONSTITUTIONAL DEVELOPMENT**

1ST Respondent

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

2ND Respondent

THE MINISTER OF POLICE

3RD Respondent

THE DIRECTOR GENERAL OF POLICE

4TH Respondent

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION**

5TH Respondent

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

6TH Respondent

MINISTER OF HOME AFFAIRS

7TH Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

8TH Respondent

SOUTH AFRICAN POLICE SERVICE

9TH Respondent

**THE NATIONAL DIRECTOR PUBLIC
PROSECUTIONS**

10TH Respondent

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

11TH Respondent

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

12TH Respondent

CONFIRMATORY AFFIDAVIT

51 4

CONFIRMATORY AFFIDAVIT

I, the undersigned,

JERRY MATHEWS MATJILA

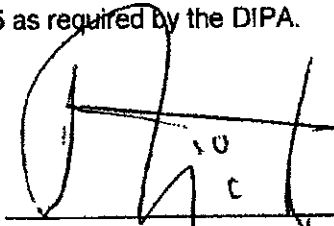
do hereby make oath and say:

1. I am the Director General of the Department of International Relations and Co-Operation (the Sixth Respondent in this matter referred to as "DIRCO") and duly authorized to depose to this affidavit.

2. The facts contained herein are within my own personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.
3. I have read the explanatory affidavit of MKUSELI APLENI, the Director General of the Department of Home Affairs, and I confirm the contents thereof insofar as it relates to the processes and protocols normally followed by DIRCO officials.
4. I further noted that DIRCO officials execute their functions in line with the applicable provisions of customary international law, the Diplomatic Immunities and Privileges Act, No.37 of 2001 (the DIPA Act) and any host Agreement concluded between South Africa and an international organisation for the hosting of an international conference in South Africa. In this particular case, the Agreement between the Republic of South Africa and the Commission of the African Union on the Material and Technical Organization




of the Meetings of the 30th Ordinary Session of the Permanent Representatives Committee from 7 to 9 June 2015, the 27th Ordinary Session of the Executive Council from 10 to 12 June 2015 and the 25th Ordinary Session of the Assembly on 14 to 15 June 2015 in Pretoria (7 and 8 June 2015) and Johannesburg (10 to 15 June 2015), Republic of South Africa," (the Host Agreement) that was signed on 4 June 2015 and published in the *Government Gazette* No. 38860 of 5 June 2015 as required by the DIPA.



DEPONENT

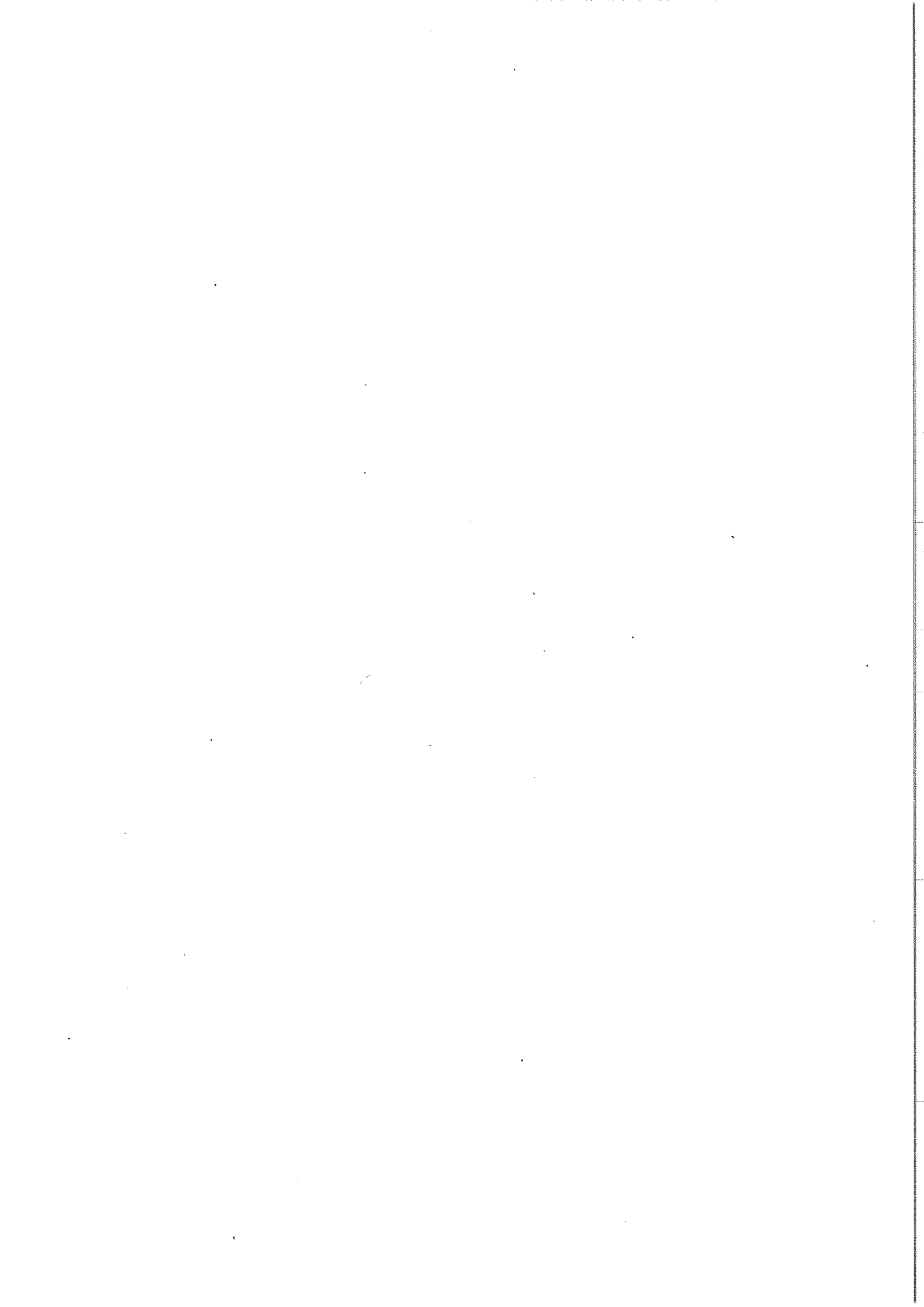
I CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to, before me, at Pretoria on this the 25 day of **JUNE 2015**, the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended) and Government Notice No. R.1648 dated 19 August 1977 (as amended) having been complied with.



+34778-1
WC
E4 CREBLER

COMMISSIONER OF OATHS
Elizabeth Hendrika Goble

2015-06-25



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

CASE NUMBER:

In the matter between:

THE SOUTH 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 POLICE

THIRD RESPONDENT

THE COMMISSIONER OF POLICE

FOURTH RESPONDENT

**THE MINISTER OF INTERNATIONAL
RELATIONS AND COOPERATION**

FIFTH RESPONDENT

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

SIXTH RESPONDENT

THE MINISTER OF HOME AFFAIRS

SEVENTH RESPONDENT

**THE DIRECTOR-GENERAL OF
HOME AFFAIRS**

EIGHTH RESPONDENT

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

NINTH RESPONDENT

**THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS**

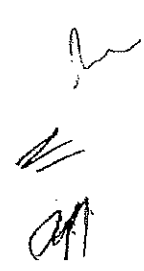
TENTH RESPONDENT

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

ELEVENTH RESPONDENT

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

TWELFTH RESPONDENT



SUPPORTING AFFIDAVIT

I, the undersigned,

DR REGINALD CASSIUS LUBISI

do hereby make oath and state as follows:

1.

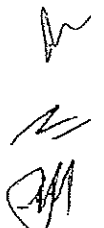
I am the Director-General of the Presidency and the Secretary of Cabinet, with offices situated at the Union Building, Arcadia, Pretoria, Gauteng.

2.

The facts contained in this affidavit are within my own personal knowledge, unless otherwise stated or indicated and are to the best of my knowledge and belief true and correct.

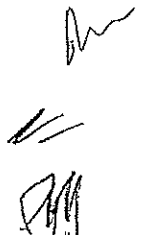
3.

I confirm that I have read the founding and supplementary affidavits deposed to by **KAAJAL RAMJATHAN-KEOGH** in support of the application. I do not intend to answer to the allegations raised by the Applicant. I have read the draft answering affidavit of the Second Respondent and I confirm and support the contents thereof. The

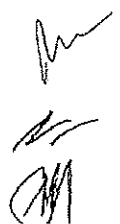


purpose of my affidavit is to inform this Honourable Court of a decision taken by Cabinet which directly relates to the issues raised by the Applicant in this application. I do not intend to repeat what is already stated by the Second Respondent in her answering affidavit, but fully align myself with the arguments raised therein. I therefore respectfully refer the Court to the following:

- 3.1 On or about the beginning of June 2015, Cabinet was made aware of the fact that Omar Hassan Ahmad Al Bashir, the President of the Republic of Sudan ("President Bashir") was invited by the African Union ("AU") to attend an AU Summit to be hosted in the Republic of South Africa and indeed confirmed his attendance.
- 3.2 The confirmation of President Bashir's attendance was accompanied by a request from the Republic of Sudan that President Bashir will be accorded all the privileges and immunities of a delegate attending an AU Summit.
- 3.3 It is in this regard important to note that it is public knowledge that the International Criminal Court ("ICC") has issued two warrants of arrest during 2009 and 2010, respectively in regards to President Bashir for various crimes as defined in the Rome Statute.

Handwritten signature and initials in the bottom right corner of the page.

- 3.4 The Republic of South Africa is a State Party to the Rome Statute and therefore obliged to give effect to any request by the ICC pertaining to a warrant of arrest.
- 3.5 Accordingly and as a result of the two warrants of arrests issued by the ICC and the concomitant hosting of the AU Summit, Cabinet deemed it prudent and necessary to deliberate and discuss the issue on whether the Republic of South Africa is required to arrest President Bashir whilst attending an AU Summit.
- 3.6 During early June 2015, Cabinet requested advice from the Chief State Law Advisor and deliberated on this issue at length. During the said discussions, Cabinet was apprised of the host agreement with the AU together with the intention of promulgating Article VIII of the host agreement as well as the implications thereof on the immunities and privileges enjoyed by President Bashir as head of a member state of the AU.
- 3.7 Cabinet collectively accepted and decided that the South African Government as the hosting country is first and foremost obliged to uphold and protect the inviolability of President Bashir in accordance with the AU terms and conditions and to consequently not arrest President Bashir in terms of the ICC arrest warrants whilst he is attending the AU Summit.

Handwritten signatures in the bottom right corner of the page, consisting of three distinct marks.

3.8 In addition to the above, Cabinet collectively appreciated and acknowledged that the aforesaid decision can only apply for the duration of the AU Summit.

4.

In the premises, I deny that the Applicant is entitled to any relief set out in the notice of motion.

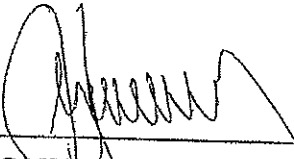
WHEREFORE I respectfully support the Respondents prayer for an order dismissing the relief sought in the notice of motion with costs consequent upon the employment of two counsel.



Deponent

Signed and sworn before me at PRETORIA on this 15 day of JUNE 2015 after the Deponent declared that he is familiar with the contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath. There has been compliance with the requirements of the Regulations contained in Government Gazette R1258, dated 21 July 1972 (as amended).





COMMISSIONER OF OATHS
FULL NAMES: *Genl Holiday*
CAPACITY: *Major*
ADDRESS: *SAPS Head Office
Financial Services
Pretorius Str. 231*

RECEIVED
15 JUN 2015
PRIVATSAK/PRIVATE BAG X94
PRETORIA
THE NATIONAL COMMISSIONER OF
THE SOUTH AFRICAN POLICE SERVICE

