2015 -06- 25

AIMO PRIM

OFFICE OF THE DEPUTY JUDGE PRESIDENT

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

Atterneys for Respondents

316 Thabo Sehume Street
Cnr Francis Baard and
Thabo Sehume Streets

Private Bag x91
PRETORIA

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E-mail: eturner@iustice.gov.za

Ref: Dr J Meier/3604/2015/Z49

AND:

THE REGISTRAR OF THE NORTH GAUTENG

HIGH COURT, PRETORIA

2015 -06- 25

ME IT OF THOSE TOTAL WIGHER PRESIDENT

DRETONA

CETICE OF THE DEPUTY JUDGE PRESIDENT

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:

2015 - CS- 25

HINTOGOR

O'CHE OF THE DEPHTY JUDGE PRESIDENT

THE SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

THE MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT	1 ST Respondent
THE DIRECTOR-GENERAL OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	2 ND Respondent
THE MINISTER OF POLICE	3 RD Respondent
THE DIRECTOR GENERAL OF POLICE	4 TH Respondent
THE MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION	5 TH Respondent
THE DIRECTOR-GENERAL OF INTERNATIONAL RELATIONS AND COOPERATION	6 TH Respondent
MINISTER OF HOME AFFAIRS	7 TH Respondent
DIRECTOR GENERAL OF HOME AFFAIRS	8 TH Respondent
SOUTH AFRICAN POLICE SERVICE	9 TH Respondent
THE NATIONAL DIRECTOR PUBLIC PROSECUTIONS	10 TH Respondent
THE HEAD OF THE DIRECTORATE FOR PRIORITY CRIMES INVESTIGATION	11 TH Respondent
THE DIRECTOR OF THE PRIORITY CRIMES LITIGATION UNIT	12 TH Respondent

EXPLANATORY AFFIDAVIT

amp

I, the undersigned,

MKUSELI APLENI

do hereby make oath and say:

- 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.
- 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



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

- 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



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 Affiars' 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.

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



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.
- 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



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 ("SUDANO1") 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 SUDANO1 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



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 Affair's 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.
- 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 where 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.



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 on this the .D.S. 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

(Dorate SELLO RAMORE 045 8806-1

nnexue "MA1"

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

In the matter between:

CASE NUMBER (7/40)

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,

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-



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.



may St

6.

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

Deponent

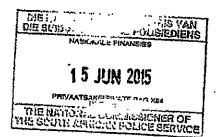
Signed and sworn before me at PRETORIA on this _ day of JUNE 2015 after the Deponent declared that he is familiar with the contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath. There has been compliance with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

COMMISSIONER OF OATHS

FULL NAMES: WELL Heliday

CAPACITY: Major

ADDRESS: SAPE Head Office



			And the second s	
PORT CONTROL OFFICE	OFFICE MANAGER	COURT ORDER	PORT CONFIRMED RECEIPT OF ACKNOWLEDGEMENT	CONFIRMED BY
		UMPOPO		
BEIT BRIDGE	ELVIS MAVHUNGU	Yes	Yes	A Makhado
GIRIYONDO	PORTIA SEKATANE	Yes	Yes	Tsakani Yvonne Historwani
GROBLERS BRIDGE	RICHARD EIBERG (ASD)	Yes	Yes	Richard Elberg
PAFURI	AEFHELI MOLAUDZI (CIO)	Yes	Yes	M T Nombi
PLATJAN	MR ANTON WEPENAR	Yes	Yes	Anton Wenener
PONTDRIFT	MS MOTSOWA SEWELA (ACTING)	Yes	Yes	Shai Phalane
STUCKPOORT	MR FREDDI TSHIFARO (CIO).	Yes	Yes	R.F. Tshifaro
ZANZIBAR	MR SENARE MABITLA ;	Yes		Molatelo Seabela and Anton Wenener
		MPUMALANGA		
BOTHASHOOP		Yes	Yes	Clement Gruna
EMAHLATHINI	MS JACOBA WHITFIELD (CIO)	Yes		Jacoba Whitfield
JEPPES REEF	MR MAMKEL! PIKE (CIO)	Yes		M T Sambo
JOSEFDAL	ELIZABETH MOILA	Yes	Yes	Ellie 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
NEKS LON		Yes	Yes	Sabelo Mndebeie
CSHORK	MR BODWANA NKOSI (CIO)	Yes.	Yes	Pontsho Mopipi
WAVERLT	JWASEKO	Yes		Jabulane Maseko
		NORTH WEST		
DEBOORD	MR ENOCH RASEDILE (CIO)	yes	yes	Enoch Rafedile
VENDEROUR!	MR JACK TABAMPE (CIO)	Yes		Alec More
MONODISTAN	MR LUSINDISO MATYUMZA (ASD)	Yes	Yes	Kholiwe Soul
Mocood	AGATHA KGOSILENTSWE	Yes	Yes	Agatha Kgosilentswe
SOLUTION OF THE PROPERTY OF TH	MR MODISAOTSILE NKOANE (CIO)	Yes	Yes	Thys Eksteen
RAMAILABAMA	KGALALELO MOKGATUTSI	Yes	Yes	Kgalalelo Mogatusi
SKILPADSHEK	AGNES PELEFU	Yes	Yes	Violet Dire / Agnes Phelefu
SWAKIKOPFONIEIN	ROCHERDT MOSINGA	Yes	Yes	N J Dingalo

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The state of the s				
	NORTI	NORTHERN CAPE		
ALEXANDRA BAY	MS NARISA KYSTER (CIO)	Yes	Yes	Nerissa Kayster
GEMSBOK	MR ANDY WILLIAMS	Yes	Yes	Sylvia van Zyl
MACCATHYS RUST	NAOMI WITKOEIE	Yes	Yes	Ishmail Dikolanyane
MIDDELPUTS	ZAMILE MBULWANE	Yes	Yes	C Mabulwane
NAKOP	DORCUS MASHIANE (HAPPY)	Yes	Yes	Dorcus Mashlane
ONSEEPKANS	MR RICHARD JULIE (CIO)	Yes	Yes	Brenton Faro
RIETFONTEIN	MS HANLIE DU PLESSIS (CIO)	Yes	Yes	Catherine Bok
SENDELINGSDRIFT	MS ANNA ENGELBRECHT (CIO)	Yes	Yes	Anna Mouton
TWEEREVIEREN	MR COENRAAD VANROOI (CIO)	Yes	Yes	Conraad van Rooyen
VIOOLSDRIFT	MS VIRGINIA VANWYK (ASD)	Yes	Yes	Neels Fredericks
	F8E	FREE STATE		
CALEDONSPOORT	MR ITUMELENG NTSANE	/kes	Yes	MJ Mthimkhulu
FICKSBURG BRIDGE	MS CYNTHIA HARDNICK	Yes	Yes	Cynthia Hardnick
MAKHALENGBRIDGE	MR PULENG NDIMA (CIO)	Yes	No	Lucas Mokoena
MASERU BRIDGE	MR TSHOLO MOETI (ASD)	Yes	yes	Ntswaki Masia
MONONTSHA PASS	KUTUMANE MOKETE (CIO)	Yes	No	Cynthia Hardnick
PEKA BRIDGE	MR SEEKETSA MOKOENA (CIO)	Yes	Yes	Koos Molete
SEPHAPHUGATE	MR TEBOGO ZONDO (CIO)	Yes	Yes	Danny Mphale
VAN RODYENSHEK	MOSES MAFUYA	Kes	Yes	Moses Mafuya
	EAST	EASTERN CAPE		
			Telehonically informed by Paul	
ONGELUKSNEK (SAPS)	SAPS	, Yes	Kok and faxed	F Gqekwa (SAPS)
QACHASNEK	MR PAUL KOK	Yes	Yes	Paul Kok
RAMETSELISO GATE (SAPS)	SAPS	Yes	Telehonically informed by Paul Kok and faxed	T Dala (SAPS)
TELEBRIDGE	MR LUNGILE TOLE (CIO)	Yes	Yes	L G Tole
	KWAZ	KWAZULU NATAL		
BOESMANSNEK (SAPS)	CAPT. BOTHA	Yes	Yes confirmation received vla Port Manager Office	Inspectorate Mikhwanazi
GOLELA	MR FLIP VAN WYK	Yes	Yes	Flip van Wyk
KOSIBAY	MR MASUKU	¦Yes	Yes	M Masuku
ONVERWACHT	MR VUSI TSHETE	Yes	Yes	Vusumzi Tshete

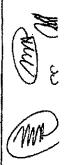




SANI PASS (SAPS)	CAPT, DLAMINI	Yes	Yes confirmation received via	Capt Diamini (SAPS) &
			i dit managal Ollica	inspectorate Doncabe
BLOEMFONTEIN AIRPORT (BRAMEIGHER	AIRE	AIRPORTS		
INTERNATIONAL)	MS ESMARALDA BARNES		Yes	Cities
CAPE TOWN INTERNATIONAL	MR ALEX KEMP	Yes	Yes	
GATEWAY AIRPORT	MS ILZE DU BRUIN	Yes		Juanita Britz
KINGSHAKA AIRPORT	MS CHARMAINE PAULSEN	Vec		M de Bruin
KRUGER MPUMALANGA AIRPORT	MR KELMON MAHI AKE	20.1	200	Charmaine Paulsen
LANSERIA AIRPORT	MS JOYOF NOVI O	20 -	Yes	Keimon Mahlake
OR TAMBO INT. AIRPORT	Mo Lielking of 1700 year	res	Yes	Themba Mgabe
PII ANESEIDO AIDAGOT	MIN HEINRICH DE VOS (DD)	Yes	Yes	Pulane Kethoilwe
SOLIT III	MR SHIKO GEORGE KHOELE	Yes	Yes	Shiko Khoele
PORT ELIZABETH AIRPORT	MR MARIUS SCHOLTZ	Yes	Yes	Marting Man
UPINGTON INTERNATIONAL	MR NONGO DIBEGE	Yes	Yes	Mailus Ival X
WATERKLOOF	Ms Baba Menzana & Mr Pitso Molefo	Voc		Correctia Mientes
	Sin	201	res	Baba Mienzana
CAPE TOWN HABBOILD		HARBOURS		
	MS CARLYN HEWITSON	Yes	Yes	Carlyo Hewitson
CUEGA (NGQURA)	MR MARIUS SCHOLTZ	Yes	Ves	A Chief I Common of the Common
DURBAN HARBOUR	MR VANU	Yas	MANAGEMENT OF THE PROPERTY OF	Walius Malx
EASTLONDON	MR AUBREY MFUNZANA	Yes		Vanu Naidoo
MOSSELBAY		200		Calvin Murray
111	SOS	*Pres	Yes	Carlyn Hewitson
	MARIUS SCHOLTZ	Yes	Yes	Marins Mary
e .	MR MICHAEL SARILLA (MUZI)	Yes	Yes	Dense Court
SALDHANABAY	MS CARLYN HEWITSON	Yes		Caum rouse
			202	Carlyn Hewitson



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PORT CONTROL OFFICE	OFFICE MANAGER	COURT ORDER SEND	PORT CONFIRMED RECEIPT OF ACKNOWLEDGEMENT	CONFIRMED BY
	TIME	LIMPOPO		
BEIT BRIDGE	ELVIS MAVHUNGU	Yes	Yes	A Makhado
GIRIYONDO	PORTIA SEKATANE	Yes	Yes	Tsakani Yvonne Hlungwani
GROBLERS BRIDGE	RICHARD EIBERG (ASD)	Yes	Yes	Richard Elberg
PAFURI	AEFHEL! MOLAUDZ! (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
				Motatelo Seabela and Anton
ZANZIBAR	MR SENARE MABITLA	Yes	Yes	Wepener
,	MUMM	MPUMALANGA		
BOTHASHOOP	MS BONNIE NKOSIE (CIO)	Yes	Yes	Clement Guma
EMAHLATHINI	MS JACOBA WHITFIELD (CIO)	Yes	Yes	Jacoba Whitfield
JEPPES REEF	MR MAMKELI PIKE (CIO)	Yes	Yes	MTSambo
JOSEFDAL	ELIZABETH MOILA	Yes	Yes	Ellie 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 Mndebele
OSHOEK	MR BODWANA NKOSI (CIO)	Yes	Yes	Pontsho Mopipi
WAVERLY	J MASEKO	Yes	Yes	Jabulane Maseko
	NORTE	NORTH WEST		
BRAY	MR ENOCH RASEDILE (CIO)	yes	yes	Enoch Rafedile
DERDEPOORT	MR JACK TABAMPE (CIO)	Yes	Ýes	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





MAS NARISA KVOTED (C.C.)	MONTHERN CAPE		
MP ANDVAINTED	Yes	Yes	Nerissa Kaysfer
IMIL AINET WILLIAMS	Yes	Yes	Orderic A. J.
NAOM! WITKOEIE	Yes	Vec	Sylvia vali Lyi
ZAMILE MBULWANE	Vac	601	Ishmail Dikolanyane
DORCUS MASHIANE (HADDY)	201	Yes	C Mabulwane
MP DICHADO III IC (CIC)	Tes	Yes	Dorous Mashlane
MS HANGING COLD	Yes	Yes	Brenton Faro
INS TAIVLE DU PLESSIS (CIO)	Yes	Yes	Cathorine Dot
MS ANNA ENGELBRECHT (CIO)	Yes	Yes	And Market
. MR COENRAAD VANROO! (CIO)	Yes	Vac	Allitia Moutton
MS VIRGINIA VANWYK (ASD)	Yes		Conraad van Rooyen
	REFOTATE	99	Neels Fredericks
MS CYNTHIA HABDNICK	165	Yes	MJ Mthimkhulu
MD DIST END NITH COOL	Yes	Yes	Cynthia Hardnick
MD TOUGH O MOSTELLING	Yes	Yes	Lucas Mokoena
WIN LONDE II (ASD)	sa).	Yes .	Newaki Macia
KUTUMANE MOKETE (CIO)	Yes	Yes	Cynthia Mardaiak
MR SEEKETSA MOKOENA (CIO)	Yes	Yes	יייייייייייייייייייייייייייייייייייייי
MR TEBOGO ZONDO (CIO)	Yes	YAS	Note (Moletie
MOSES MAFUYA	Yes	Yes	Canny Imphate
BA	CTEDNITABE		Moses Mafuya
	SICHN CAPE		
SAPS	Yes	I elehonically informed by Paul Kok and faved	i di
MR PAUL KOK	Yes	Yes	r cqekwa (SAPS)
SADS		Telehonically informed by Paul	raul NUK
MO TION TOWN	Yes	Kok and faxed	T Dala (SAPS)
ושני במילמותה וסבה (כינט)	Yes	Yes	L G Tole
KWA	ZULU NATAL		
САРТ. ВОТНА	Yes	Yes confirmation received via Port Manager Office	Incompanie Mchanne
MR FLIP VAN WYK	Yes	Yes	The pountain with the little wallaz
MR MASUKU	Yes		riip van wyk
MR VUSI TSHETE	Sa. Y	T Sel	M Masuku
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SANI PASS (SAPS)	CAPT. DLAMINI	Yes	. Yes confirmation received via Port Manager Office	Capt Diamnini (SAPS) & Inspectorate Doncabe
	JOIN	Albacate		
BLOEMFONTEIN AIRPORT (BRAMFISHER				
INTERNATIONAL)	MS ESMARALDA BARNES	Yes	Yes	rikile 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 Kethoilwe
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 Mienies
WATERKLOOF	Ms Baba Menzana & Mr Pitso Molefo	Yes	Yes	Baba Menzana
	HAR	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
MOSSELBAY	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



(*

Ntokozo Mzoneli - Fwd: Movements at Waterkloof Airbase - 15 June 2015 The state of the s

From:

Mkuseli Apleni

To:

Ntokozo Mzoneli

Date:

2015/06/15 01:38 PM

Subject: Fwd: Movements at Waterkloof Airbase - 15 June 2015

>>> Baba Mienzana 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

2015/06/15 (5

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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	1 ST Respondent
THE DIRECTOR-GENERAL OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	2 ND Respondent
THE MINISTER OF POLICE	3 RD Respondent
THE DIRECTOR GENERAL OF POLICE	4 [™] Respondent
THE MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION	5 TH Respondent
THE DIRECTOR-GENERAL OF INTERNATIONAL RELATIONS AND COOPERATION	6 TH Respondent
MINISTER OF HOME AFFAIRS	7 TH Respondent
DIRECTOR GENERAL OF HOME AFFAIRS	8 TH Respondent
SOUTH AFRICAN POLICE SERVICE	9 TH Respondent
THE NATIONAL DIRECTOR PUBLIC PROSECUTIONS	10 TH Respondent
THE HEAD OF THE DIRECTORATE FOR PRIORITY CRIMES INVESTIGATION	11 TH Respondent
THE DIRECTOR OF THE PRIORITY CRIMES LITIGATION UNIT	12 TH Respondent
CONFIRMATORY AFFIDAVIT	



I, the undersigned,

SAMSON MAKHUDU GULUBE

do hereby make oath and say:

- I am the Secretary for Defence and duly authorized to depose to this affidavit on behalf of the Department of Defence and Military Veterans.
- 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 on this the 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
formula State RAMBER
OLBEROB-1: LIEUTENMY
231 WATERIUS
FRANCIS BARRES STREET
PRETORIA

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All 85

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

CASE NO: 27740/15

In the matter between:

CONFIRMATORY AFFIDAVIT	· · · · · · · · · · · · · · · · · · ·
THE DIRECTOR OF THE PRIORITY CRIMES LITIGATION UNIT	12 TH Respondent
THE HEAD OF THE DIRECTORATE FOR PRIORITY CRIMES INVESTIGATION	11 TH Respondent
THE NATIONAL DIRECTOR PUBLIC PROSECUTIONS	10 TH Respondent
SOUTH AFRICAN POLICE SERVICE	9 TH Respondent
DIRECTOR GENERAL OF HOME AFFAIRS	8 TH Respondent
MINISTER OF HOME AFFAIRS	7 TH Respondent
THE DIRECTOR-GENERAL OF INTERNATIONAL RELATIONS AND COOPERATION	6 TH Respondent
THE MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION	5 TH Respondent
THE DIRECTOR GENERAL OF POLICE	4 TH Respondent
THE MINISTER OF POLICE	3 RD Respondent
THE DIRECTOR-GENERAL OF JUSTICE - AND CONSTITUTIONAL DEVELOPMENT	2 ND Respondent
THE MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT	1 ST Respondent
and	
THE SOUTHERN AFRICA LITIGATION CENTRE	Applicant

I, the undersigned,

MANGWASHI VICTORIA PHIYEGA

do hereby make oath and say:

- 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).
- 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.

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 on this the As 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 OUSB806-1 LIGHTONMY

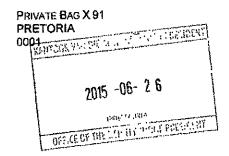
231 WATCHUIS

FRANCIS BABRA STREET

.



Office of the State Attorney Pretoria



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. EMAIL: JMEIER

eturner@justice.gov.za

MY REF:

3804/2015/249

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

- Please find attached hereto the Confirmatory Affidavit of the Director General of 1. 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.
- We herewith extend our sincere apologies for the late filing of the aforesaid 2. Confirmatory Affidavit.
- The Director General of DIRCO was only able to consider the contents of the 3. Explanatory Affidavit after the Eighth Respondent deposed to the said affidavit, in order to 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

FOR STATE ATTORNEY PRETORIA

IN THE HIGH COURT OF SOUTH AFRICA (GAUTENG DIVISION, PRETORIA) OFFICE OF THE DATE OF THE PARTY OF THE PA

page 11- 1876

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 GAUTEN®15 -88- 2 8

HIGH COURT, PRETORIA

HAME OF THE CHAPTER HAME PRESTORING

ANTELLY CONTRACTOR OF THE PROPERTY

AND TO:

WEBBER WENTZEL

C/O BERNHARD VAN DER HOVEN

Per email: maxine.gunzenhauser@webberwentzel.com

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

CASE NO: 27740/15

In the matter between:

2015 -CS- 2 6

Basics in the Assessment of the fact

THE SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

THE MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT	1 ST Respondent
THE DIRECTOR-GENERAL OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	2 ND Respondent
THE MINISTER OF POLICE	3 RD Respondent
THE DIRECTOR GENERAL OF POLICE	4 TH Respondent
THE MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION	5 TH Respondent
THE DIRECTOR-GENERAL OF INTERNATIONAL RELATIONS AND COOPERATION	6 TH Respondent
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THE NATIONAL DIRECTOR PUBLIC PROSECUTIONS	10 TH Respondent
THE HEAD OF THE DIRECTORATE FOR PRIORITY CRIMES INVESTIGATION	11 TH Respondent
THE DIRECTOR OF THE PRIORITY CRIMES LITIGATION UNIT	12 [™] Respondent

CONFIRMATORY AFFIDAVIT

8/ 4

CONFIRMATORY AFFIDAVIT

I, the undersigned,

JERRY MATHEWS MATJILA

do hereby make oath and say:

- 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.
- 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.
- 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

CH ORUBIGE

COMMISSIONER OF OATHS

Elizabeth Herdrika Suble

7.8-05-25

. . • 4

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:

- 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.





- 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.

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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

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).

W.

COMMISSIONER OF OATHS
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CAPACITY: Major
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Financial Service & Pretains Str. 231

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THE NATIONAL CUMUNSSIONER OF THE SOUTH AFRICAN POLICE SERVICE