



Coalition for the International Criminal Court

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PRESS RELEASE

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KENYAN AUTHORITIES FAILED TO COOPERATE WITH THE ICC

Global Coalition Urges on Kenyan authorities to Honor Obligations to the Rome Statute

(New York) - On 27 August 2010, Kenyan authorities hosted Sudanese President Omar Al-Bashir in Nairobi as a guest in a special ceremony in celebration of Kenya's new constitution, failing to comply with its obligations as Member State to the United Nations and as State party to the ICC, the Coalition for the International Criminal Court (CICC) said today.

Sudanese President Omar Hassan Al-Bashir is sought by the International Criminal Court (ICC) for charges of war crimes, crimes against humanity and genocide allegedly committed in Darfur, Sudan in 2003 and 2004.

As a member State to the United Nations since 1963, Kenya must abide by and implement the resolutions adopted by the UN Security Council under Chapter VII of the United Nations Charter, in this case, Resolution 1593/2005. Moreover, as a State Party to the ICC Statute, Kenya is under the obligation to arrest and surrender all persons against whom the Court has issued warrants of arrest, including President Al-Bashir.

“The failure of Kenyan authorities to arrest Al-Bashir constitutes a serious breach of Kenya's international obligations under not only the ICC Statute and the United Nations Charter, but also under its national legislation, including its new constitution, which recognizes the direct applicability of international law,” said CICC Convenor William R. Pace. “What should have been a day of celebration of Kenya's commitment to human rights, democracy and rule of law is now marred by welcoming an international fugitive and disregarding the plight of the thousands of victims in Darfur.”

Resolutions of regional bodies, such as the African Union, cannot override States' obligation under international treaties, such as the ICC Statute, nor defy resolutions of the United Nations Security Council. Similarly, it is unacceptable to use protocol practices as an excuse to breach international law and perpetuate impunity for the most serious crimes. Protocol practices must be in conformity with States' international legal requirements.

The Coalition calls on the Assembly of States Parties to the Rome Statute as well as on the United Nations Security Council to take the necessary measures to ensure the full implementation of ICC decisions, including the execution of all pending warrants of arrest. The Coalition urges Kenyan authorities to fully cooperate with the ICC in its investigations concerning the post-elections violence in 2007 and 2008.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity and genocide. There are currently 113 ICC States Parties. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute. To date, the ICC has opened investigations in five situations: the Central African Republic; Darfur, Sudan; Uganda; Democratic Republic of Congo and Kenya and it has publicly issued twelve arrest warrants and three summonses to appear. Two trials are ongoing and a third is expected to open in 2010. The ICC Office of the Prosecutor has made public that it is examining at least eight situations on four continents, including Afghanistan, Colombia, Côte d'Ivoire, Georgia, Guinea and Palestine.

FOR ADDITIONAL INFORMATION: Please visit the Coalition's website at <http://www.coalitionfortheicc.org/> and participate in our blog "In Situ: See justice through the eyes of civil society" at www.coalitionfortheicc.org/blog

Experts from international human rights organizations are listed on the following pages for comment and background on these developments.

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Important notice: *The Coalition for the International Criminal Court (CICC) is a civil society network in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. The Coalition as a whole, and its secretariat, does not endorse or promote specific investigations or prosecutions or take a position on situations before the ICC. However, individual CICC members may endorse referrals, provide legal and other support on investigations, or develop partnerships with local and other organizations in the course of their efforts.*

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