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Nigeria: Government must arrest Sudanese President during visit

Amnesty International today revealed that Nigerian President Umaru Yar'Adua has issued an invitation to Sudanese President Omar al Bashir to visit Nigeria even though President al Bashir is wanted by the International Criminal Court (ICC) on charges of war crimes and crimes against humanity.

The invitation is for President Omar al Bashir to attend an African Union Peace and Security Council meeting in Abuja, scheduled to begin on Thursday, 29 October 2009.

Amnesty International said that it learned about the still-secret invitation from several reliable sources.

Former South African President Thabo Mbeki is expected to present a report on the situation in Darfur at the meeting.

President Umaru Yar'Adua has apparently given assurances that President Omar al Bashir will not be arrested if he comes to Nigeria.

“He is an international fugitive from justice, charged with responsibility for crimes against humanity and war crimes against Africans. It would be shameful of Nigeria to offer him safe haven,” said Kolawole Olaniyan, Amnesty International’s Africa Legal Adviser.

“The Nigerian government has an unconditional legal obligation to arrest President Omar al Bashir and hand him over to the ICC should he enter Nigerian territory. Any failure to do this is a failure to fulfil obligations under international law and may amount to obstruction of justice.”

An arrest warrant for President Omar al Bashir was issued by the ICC on 4 March 2009.

“The Nigerian government must act for the sake of thousands of victims of crimes against humanity and war crimes committed in Darfur,” said Kolawole Olaniyan.

Nigeria is a party to the treaty establishing the ICC and is obliged without exception to cooperate with the ICC and arrest and surrender anyone named in an arrest warrant to the ICC. If it fails to do so, the ICC can refer this clear violation of Nigeria’s obligations to the Security Council under Article 87 (7) of that treaty.

Notes to editors:

- President Omar al Bashir was invited by Ugandan President Yoweri Museveni to this week’s African Union summit on refugees, returnees and internally displaced persons in Kampala. Following protests by NGOs, including Amnesty International, President Omar al Bashir did not attend the meeting.

- Since the ICC issued the arrest warrant on 4 March 2009, President al Bashir has visited seven states (Eritrea, Egypt, Libya, Qatar, Saudi Arabia, Ethiopia and Zimbabwe), none of which are parties to the ICC treaty.
- Although the African Union has urged states not to cooperate with the ICC in enforcing this arrest warrant, several states parties to the ICC treaty, including Botswana, Brazil and South Africa, have indicated that they would fulfil their legal obligations and arrest him if were to enter their countries.
- Nigeria has a contingent of armed forces serving in the African Union-United Nations Hybrid Operation in Darfur (UNAMID).
- Article 86 of the Rome Statute of the International Criminal Court requires states parties to “cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court.”
- Article 87 (7) of the Rome Statute provides: “Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and...,where the Security Council referred the matter to the Court, to the Security Council.”
- Many African civil society groups have supported the call for Pres. al Bashir to be arrested and surrendered to the ICC.