Sudan president Omar al-Bashir leaves South Africa as court considers arrest

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By [Owen Bowcott](https://www.theguardian.com/profile/owenbowcott)

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https://www.theguardian.com/world/2015/jun/15/south-africa-to-fight-omar-al-bashirs-arrest-warrant-sudan

The Sudanese president, [Omar al-Bashir](https://www.theguardian.com/world/omar-al-bashir), has flown home, leaving South Africa in defiance of a court order that he must remain to face an international arrest warrant.

His abrupt departure early on Monday came amid urgent calls from the UN general secretary, Ban Ki-moon, the EU and the US for the 71-year-old Sudanese leader to be detained.

Dressed in traditional white robes, Bashir – who is wanted by the international criminal court (ICC) for alleged genocide and war crimes in [Darfur](https://www.theguardian.com/world/darfur) – emerged from his plane in Khartoum on Monday afternoon to be greeted by cheering supporters.

His flight is a se rious challenge to the authority of the ICC, which has issued two international warrants for his arrest.

As Bashir’s plane took off from Waterkloof military airfield outside Pretoria, the local high court was hearing arguments over an application that would have forced the South African government to arrest him.

A South African judge criticised the government for allowing Bashir to leave. “The conduct of the respondents to the extent that they have failed to take steps to arrest and detain the president of Sudan, Omar al-Bashir, is inconsistent with the constitution of the Republic of [South Africa](https://www.theguardian.com/world/southafrica),” Dunstan Mlambo said.

The high court ruled after Bashir’s departure that he should have been detained.

Bashir had travelled to South [Africa](https://www.theguardian.com/world/africa) for an African Union summit chaired by Zimbabwe’s president, Robert Mugabe, who has urged African leaders to pull out of the ICC.

African states accuse the court, which is based in The Hague, of only targeting political leaders on their continent and failing to bring those responsible for war crimes in the Middle East and elsewhere to justice.

Human rights groups, however, were outraged that Bashir could openly defy arrest. The Southern [Africa](https://www.theguardian.com/world/africa) Litigation Centre had filed an urgent application to overturn a government decision to grant immunity to all delegates attending the summit.

James Stewart, the ICC’s deputy prosecutor, said: “In our view, it was very clear that South Africa should have detained Bashir so he could have been brought to trial in The Hague.”

On Sunday, judge Hans Fabricius sitting in South Africa’s high court [had issued an interim order](https://www.theguardian.com/world/2015/jun/14/sudan-president-omar-al-bashir-south-africa-icc) barring Bashir from leaving the country. The government had said it would argue against the court application on the grounds that it had granted delegates at the conference immunity.

The judge’s hearing resumed at 9.30am GMT on Monday, but was adjourned so the court could study documents submitted by the government.

“We will meticulously argue for the application to be dismissed,” Mthunzi Mhaga, a spokesman for the justice ministry, told the local ENCA television station.

Sudanese officials claimed the court order had no value because Bashir was invited by the South African government.

“[The] world stood [with] South Africa to fight apartheid, but it stands for impunity for mass murder of Africans,” Kenneth Roth, the director of Human Rights Watch, said on Twitter.

“South Africa has shamefully flouted ICC and domestic court to free man wanted for mass murder of Africans,” he said.

As many as 300,000 people have died in the Darfur conflict and 2 million have been displaced, according to the UN.

On Sunday, South Africa criticised the ICC for unfairly focusing its indictments on African leaders and said the court was “no longer useful”.

The response has put South Africa on a collision course with western leaders, as the US state department and the UN criticised Jacob Zuma’s government.

“The international criminal court’s warrant for the arrest of president Bashir on charges of crimes against humanity and war crimes is a matter I take extremely seriously,” Ban told reporters in Geneva. “The authority of the ICC must be respected and its decision implemented.”

South Africa is an ICC signatory and as such obliged to implement arrest warrants, but the ruling African National Congress has said it wants the court’s statutes to be reviewed to ensure a “fair and independent court”.

The ICC issued arrest warrants for Bashir in 2009 and 2010. He has long rejected the court’s authority.