

## Directorate of Information and Communication

## Press Release

## The AU makes Oral Submission before the Appeals Chamber of the International Criminal Court



*Ambassador (Dr.) Namira Negm, Legal Counsel of the AU Commission, presenting the AU's Opening Statement before the Appeals Chamber of the ICC.*

**The Hague, 10 September 2018** – The Appeals Chamber of the International Criminal Court (“ICC”) commenced hearing of oral submissions in the *“Hashemite Kingdom of Jordan’s Appeal against the Decision under Article 87(7) of the Rome Statute on the Non-Compliance by Jordan with the request by the Court for the Arrest and Surrender of Omar Al-Bashir”*.

The Appeals Chamber, in an Order dated 29 March 2018, invited the AU and other international organizations to make an amicus curiae submission in the case. The AU’s written submission was delivered to the Court on 16 July 2018, following which the Court set the dates to hear oral submissions from 10 to 14 September 2018, at the seat of the International Criminal Court in the Hague, Netherlands.

The AU team, led by Amb. (Dr.) Namira Negm, Legal Counsel of the AU Commission, is also represented by two external counsels, Prof. Dire Tladi and Prof. Charles Jalloh, both African Members of the International Law Commission and professors in international law at the University of Pretoria and the University of Florida, respectively. The League of Arab States and

professors in the field of international law are also in The Hague to respond to questions posed by the ICC.



*Professor Dire Tladi (Left) and Professor Charles Jalloh (Right) representing the AU before the ICC*

The AU's decision to honour the ICC's invitation to submit the amicus curiae brief stems from the its desire to gain clarity on the question of immunities of Heads of State under the Rome Statute, the answer to which is likely to have major implications for the African Union and its Member States.

Jordan's appeal is closely linked to the ICC's decision of 6 July 2017 issued against the Republic of South Africa for its failure to arrest President Omar al-Bashir and surrender him to the ICC when he attended the Assembly of Heads of State and Government of the African Union (AU) in Johannesburg in June 2015. The Assembly of the Union expressed "deep concern" at this decision of the ICC Pre-Trial Chamber II during its 30th Ordinary Session held in January 2018, noting that it is at variance with customary international law and therefore called on AU Member States, particularly those that are States Parties to the ICC Rome Statute, to oppose this line of interpretation of their legal obligations.

Members of the Public can follow the hearings on <https://www.youtube.com/watch?v=TQz16EPTVNs&feature=youtu.be>.

## **Note to Editors**

President Omar Al Bashir of Sudan is accused of genocide and other crimes committed in Darfur. The United Nations Security Council referred the situation in Darfur to the ICC in 2005, stating that “the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor”, S/RES/1593 (2005). However, some States, including the Hashemite Kingdom of Jordan, failed to arrest President Al Bashir when he was on her territory, similar to what took place in the case of the Republic of South Africa. Consequently, on 11 December 2017, the ICC Pre-Trial Chamber II rendered a decision where it ruled that the immunities of Omar Al Bashir as Head of State cannot be invoked to justify a failure to comply to the Court’s request of his arrest. The case before the Appeals Chamber is Jordan’s appeal of the decision of the Pre-Trial Chamber.