ICC: At hearings, South Africa seeks clarity on Rome Statute

April 11, 2017

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Daily Maverick

<https://www.dailymaverick.co.za/article/2017-04-11-icc-at-hearings-south-africa-seeks-clarity-on-rome-statute/#.WO-BFKK1s2w>

## Looking for any upsides to the current political turmoil in South Africa? One could be that South Africa’s plans to withdraw from the International Criminal Court has fallen off government’s immediate to-do list. Instead the country has taken part in constructive engagement at The Hague recently. By CARIEN DU PLESSIS.

If South Africa had really wanted to tell the International Criminal Court to go to hell, it would probably not have bothered to show up at this hearing to determine whether government had failed its obligations by not arresting Sudanese president Omar al-Bashir.

South Africa would certainly not have sent a team of five legal representatives to make its case, and Dire Tladi (advisor to the minister of international relations) and Sandra de Wet (chief state law adviser) would not have bothered to come armed with a properly structured defence.

“There is and was no duty on South Africa to arrest Mr al-Bashir,” Tladi argued. He based his points on an interpretation of Security Council Resolution 1593 that referred the Sudan case to the ICC. This resolution, he said, was only explicit about the duty and obligations of Sudan in relation to the case on the conflict in its Darfur region, in which al-Bashir has been charged with genocide and crimes against humanity.