



American Model United Nations
International Court of Justice

1 **THE KINGDOM OF BELGIUM,**

2 **APPLICANT**

3 **V.**

4 **THE REPUBLIC OF SENEGAL,**

5 **RESPONDENT**

6 **MEMORIAL OF THE REPUBLIC OF SENEGAL**

7 COMES NOW the Republic of Senegal, and for its Memorial to the Court, respectfully states the
8 following:

9 STATEMENT OF LAW:

10 1.) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punish-
11 ment (1984): Senegal is a signatory to the Convention and acknowledges its obligations under Articles
12 5 and 7 to either prosecute or extradite individuals accused of torture. However, Senegal disputes Bel-
13 gium's interpretation of these obligations within the context of state sovereignty and regional stability.

14 2.) Customary International Law: Senegal recognizes the principle of universal jurisdiction for
15 serious international crimes, but emphasizes that the prosecution of former heads of state, particularly
16 those who were granted asylum, must take into account the complexities of state sovereignty, regional
17 stability, and international cooperation.

18 3.) African Union's Role: Senegal's actions have been guided by the African Union, a regional
19 body, in accordance with the principle of subsidiarity. Senegal has accepted the AU's recommendation
20 to try Habr within its jurisdiction, in line with the notion of regional adjudication of international crimes.

21 STATEMENT OF FACT:

22 Hissne Habr, former President of Chad from 1982 to 1990, is accused of grave international
23 crimes, including war crimes, torture, and crimes against humanity. Following his ousting, Habr sought
24 asylum in Senegal. Senegal adhering to international principles, including non-refoulement acts, granted
25 Habr political asylum, fully aware of the sensitive nature of the allegations and the regional dynamics
26 at play.

27 Alleged victims, including citizens of Belgium, lodged complaints in the Senegalese court. How-
28 ever, due to jurisdictional limitations, under Senegalese law at the time, the complaints were dismissed.
29 In 2005, Belgium initiated extradition proceedings under the principle of Universal jurisdiction, citing
30 Senegal's obligation to prosecute or Extradite Habr under the 1984 Convention Against Torture (CAT).

31 In light of the complexities of international justice and regional stability, Senegal deferred mat-
32 ters to the African Union (AU). In 2006, the AU's Committee of African Jurists recommended that Senegal
33 prosecute Habr within its jurisdiction. Senegal accepted the AU's recommendation and has since un-
34 dertaken significant legislative and procedural reforms to align its legal system with the international
35 standards for the prosecution of serious international crimes.

36 On 19 February 2009, Belgium filed an application before the International Court of Justice (ICJ),
37 alleging that Senegal violated its obligations under the Convention Against Torture by failing to either
38 prosecute or extradite Habr

39 STATEMENT OF JURISDICTION:

40 1.) Senegal disputes the jurisdiction of the International Court of Justice under Article 30 of the
41 Convention Against Torture. Senegal maintains that no genuine legal dispute exists between Belgium
42 and Senegal regarding the interpretation or application of the Convention.

43 2.) The referral of the matter to the African Union and Senegal's acceptance of the AU's recom-
44 mendation to prosecute Habr within its jurisdiction demonstrate a commitment to justice and regional
45 stability. Senegal's actions, including legislative reforms, reflect its good faith compliance with its in-
46 ternational obligations.

47 3.) Accordingly, Senegal contends that Belgium's claim of inaction is unfounded, and there is no
48 legal basis for the ICJ to intervene in this matter. The issue falls squarely within the regional framework
49 provided by the African Union.

50 ARGUMENTS

51 I. Lack of Jurisdiction

52 1. Senegal asserts that the ICJ lacks jurisdiction under Article 30 of the Convention Against Tor-
53 ture. No genuine dispute exists between Senegal and Belgium, as Senegal has demonstrated active
54 steps toward prosecution.

55 2. Senegal's referral to the AU, and subsequent acceptance of the AU's recommendation to try
56 Habr, indicate that Senegal is pursuing a regional geographic solution consistent with its obligations
57 under international law. As such, regional mechanisms for justice, led by the AU, should be the primary
58 forum for adjudication.

59 3. International adjudication is unwarranted when effective regional processes, endorsed by
60 the relevant legal authorities, are functioning. Belgium's attempt to bypass these mechanisms under-
61 mines the principle of subsidiarity and regional sovereignty.

62 II. Senegal's Actions in Good Faith

63 1. Senegal has taken substantial legal and procedural steps toward prosecuting Habr. Delays
64 are attributable to legislative and judicial reforms necessary to establish the framework for prosecuting
65 serious international crimes, rather than a failure to act.

66 2. In accepting the AU's recommendation to prosecute Habr, Senegal has demonstrated a clear
67 commitment to fulfilling its obligations under the Convention Against Torture. These actions are in full
68 alignment with the international community's expectations of states acting in good faith.

69 3. Senegal's legal system, at the time of Habr's asylum, did not possess a comprehensive
70 framework for the prosecution of international crimes. Since then, Senegal has undertaken significant
71 reforms, including the amendment of national legislation, to align its judicial system with international
72 standards.

73 III. Prosecution in Senegal Is a Regional Solution

74 1. Regional solutions, particularly within the context of international crimes involving former
75 heads of state, are more appropriate and sensitive to the nuances of regional stability. The African
76 Union, as the leading continental body, has played a pivotal role in this case by providing legal recom-
77 mendations to Senegal.

78 2. Senegal contends that Belgium's insistence on extradition undermines the regional judicial
79 process and could destabilize the delicate balance of justice and peace within the region. Senegal
80 remains fully committed to ensuring justice, but through the regional mechanisms prescribed by the
81 AU.

82 3. Belgium's application attempts to interfere with Senegal's sovereignty and the African Union's
83 adjudicative role, thus disregarding the importance of regional adjudication of international crimes.

84 IV. Absence of Dispute

85 1. No genuine legal dispute exists between Belgium and Senegal. Senegal has consistently
86 maintained its commitment to prosecuting Hissne Habr, and Belgium's claim that Senegal has failed
87 to act is unsupported by the facts.

88 2. Senegal has acted in good faith, taking into account the legal and procedural complexities
89 involved in the case. The absence of a completed trial does not indicate a failure to comply with in-

90 ternational obligations, but rather reflects the necessary judicial reforms required for such complex
91 case.

92 3. Belgium's application to the ICJ, insisting on extradition, is an unnecessary and premature
93 escalation, as Senegal is prepared and committed to prosecuting Habr within its own jurisdiction.

94 SUMMARY AND REQUESTS

95 Reiterating the fact that Senegal has acted in accordance with its obligations under the 1984
96 Convention Against Torture and in line with the African Union's recommendations, the Republic of Senegal
97 prays the Court to adjudge and declare that: The International Court of Justice lacks jurisdiction
98 to hear Belgium's claims, as no genuine dispute exists between Senegal and Belgium under Article 30
99 of the Convention Against Torture. Senegal has fulfilled its obligations under the Convention Against
100 Torture, by taking significant steps toward the prosecution of Hissne Habr, including legislative reforms
101 and adherence to the African Union's recommendation to try Habr within Senegal. The Court should
102 dismiss Belgium's application and recognize that Senegal's compliance with regional judicial mech-
103 anisms aligns with international law and respects the principle of subsidiarity. The Court should order
104 Belgium to refrain from interfering in the ongoing regional judicial process, respecting the role of the
105 African Union and Senegal's sovereign right to prosecute Hissne Habr domestically.