

**Cour
Pénale
Internationale**
**International
Criminal
Court**

No.: ICC-02/04-01/05

Date: 27 September 2005

Original: English

PRE-TRIAL CHAMBER II

Before: Judge Tuiloma Neroni Slade
Judge Mauro Politi
Judge Fatoumata Dembele Diarra

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Under Seal
Ex Parte, Prosecutor only

**DECISION ON THE PROSECUTOR'S URGENT APPLICATION DATED 26
SEPTEMBER 2005**

The Office of the Prosecutor
Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Ms Christine Chung, Senior Trial Lawyer
Mr Eric MacDonald, Trial Lawyer

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court (the “Court”);

SITTING as the full Chamber, pursuant to the Chamber’s decision on the 18th day of May 2005;

HAVING received the Prosecutor’s “Urgent Application for Authorisation to Disclose Information Relating to the Warrants of Arrest, to Request the Registry to Transmit Requests for Arrest and Surrender, and to Modify the Requested Date of Unsealing” dated the 26th day of September 2005 (the “Prosecutor’s urgent application for authorisation”);

NOTING the Prosecutor’s urgent requests for authorisation by Tuesday, the 27th day of September 2005: (1) to “notify the representatives of States and international bodies” of the “existence of the warrants of arrest” issued by the Chamber on the 8th day of July 2005, and the “contents of the warrants”, if the Prosecutor “deems such disclosure necessary to prevent an opportunity for securing possible arrest of an accused from being lost”; and (2) to “request the Registry to transmit the request for arrest and surrender, under seal, to any combination of the following Governments: the Governments of Uganda, the Democratic Republic of Congo (“DRC”), and the Sudan”;

NOTING also the Prosecutor’s request to redact and/or amend some of the warrants of arrest issued by the Chamber on the 8th day of July 2005, and to issue a new set of relevant requests for arrest and surrender;

NOTING the request for unsealing as initially submitted in the Prosecutor's "Application for Unsealing of Warrants of Arrest Issued on 8 July 2005, and Other Related Relief" dated the 9th day of September 2005 (the "Prosecutor's application for unsealing") and as modified in the Prosecutor's urgent application for authorisation;

RECALLING the Chamber's "Decision on the Prosecutor's Application for Warrants of Arrest under Article 58" dated the 8th day of July 2005, in which the Chamber ordered that the Prosecutor's application for warrants of arrest and the proceedings relating thereto, including the warrants of arrest issued and the requests for arrest and surrender, be treated as under seal and be kept under seal until further order of the Chamber;

RECALLING also the warrants of arrest issued by the Chamber on the 8th day of July 2005 and the requests for arrest and surrender issued on the same day addressed to the Republic of Uganda;

NOTING the reasons submitted in support of the Prosecutor's urgent application for authorisation, in particular those relating to recent developments and to the existence of "a potentially unique prospect for arresting" certain persons for whom arrest is sought and "for improving security in Northern Uganda and elsewhere";

NOTING the Chamber's inherent powers to make necessary alterations to documents issued by the Chamber;

HAVING REGARD THERETO AND FOR THESE REASONS;

THE CHAMBER HEREBY:

AUTHORISES the Prosecutor, on a confidential basis and in situations where the Prosecutor deems it necessary to disclose the information set out under subparagraphs (i) and (ii) below to ensure the successful execution of the warrants of arrest, to notify the appropriate governmental authorities of those States whose cooperation is essential to the successful execution of the warrants of arrest, as well as relevant inter-governmental organisations, of:

- (i) the existence of the warrants of arrest issued by the Chamber on the 8th day of July 2005; and
- (ii) the names and any other relevant identifying information of the five persons named in the warrants of arrest;

INVITES the Prosecutor to inform the Chamber of the governmental authorities or inter-governmental organisations notified as authorised herein;

DECIDES to amend the Warrant of Arrest for **JOSEPH KONY** issued by the Chamber on the 8th day of July 2005 by providing that the words "Gulu town" appearing in paragraph 48 of the Warrant of Arrest be replaced by the words "Omoro County" with a view to ensuring proper identification, and accordingly to issue an amended Warrant of Arrest for **JOSEPH KONY**;

DENIES, for the purposes of the Prosecutor's urgent application for authorisation, the Prosecutor's request to redact the warrants of arrest in the manner identified in paragraph 14 of the Prosecutor's application for unsealing;

DECIDES to amend the Request for Arrest and Surrender of **JOSEPH KONY** issued by the Chamber on the 8th day of July 2005 by providing that the words "Gulu town" appearing in the Request be replaced by the words "Omoroto County" with a view to ensuring proper identification, and accordingly to issue an amended Request for Arrest and Surrender of **JOSEPH KONY**, to be transmitted by the Registrar to the Republic of Uganda;

ISSUES requests for arrest and surrender of **JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO, RASKA LUKWIYA** and **DOMINIC ONGWEN**, to be transmitted by the Registrar to the Democratic Republic of the Congo and the Republic of Sudan;

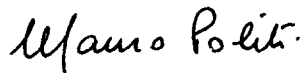
DECIDES, pursuant to regulation 30 of the Regulations of the Court, to hold a status conference on the 3rd day of October 2005 at 3:00 p.m. by way of a hearing in closed session, to be attended by the Prosecutor and the Victims and Witnesses Unit to report on the status of the protective measures for victims and witnesses, the transmission of the requests for arrest and surrender and the executions of the warrants of arrest, and for the Chamber to seek additional information and clarification regarding the Prosecutor's application for unsealing and the proposed redactions;

ORDERS that the Prosecutor's urgent application for authorisation and this Decision be kept under seal until further order by the Chamber.

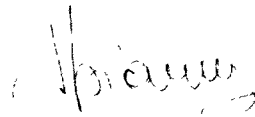
Done in both English and French, the English version being authoritative.



Judge Tuiloma Neroni Slade
Presiding Judge



Judge Mauro Politi



Judge Fatoumata Dembele Diarra

Dated this 27th day of September 2005

At The Hague, The Netherlands

Seal of the Court