

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 March 2009

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

**SITUATION IN UGANDA
IN THE CASE OF
THE PROSECUTOR
*v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO, DOMINIC ONGWEN***

Confidential

Ex parte – only available to the Registry

**Report of the Registrar on the level of confidentiality of the "Registry's Report on
the mission to Uganda"**

Source: The Registrar

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mrs. Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (the "Court")

NOTING the warrant of arrest for Joseph KONY, issued by the Chamber on 8 July 2005, as amended on 27 September 2005¹, and the warrants of arrest issued for Vincent OTTI,² Okot ODHIAMBO,³ and Dominic ONGWEN⁴ on 8 July 2005;

NOTING the request for arrest and surrender of Joseph KONY, dated 8 July 2005, as amended on 27 September 2005,⁵ and the requests for arrest and surrender of Vincent OTTI,⁶ Okot ODHIAMBO⁷ and Dominic ONGWEN⁸ to the Republic of Uganda, dated 8 July 2005;

NOTING the *"Decision initiating proceedings under article 19, requesting observations and appointing counsel for the Defence"*⁹, issued by the Pre-Trial Chamber II (the "Chamber") on 21 October 2008;

NOTING the "Registry's report on the mission to Uganda" submitted on 20 February 2009;¹⁰

NOTING the "Decision on "The Registry's Report on the mission to Uganda"" rendered by the Chamber on 10 March 2009;¹¹

¹ ICC-02/04-01/05-53.

² ICC-02/04-01/05-54.

³ ICC-02/04-01/05-56.

⁴ ICC-02/04-01/05-57.

⁵ ICC-02/04-01/05-29-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁶ ICC-02/04-01/05-13-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁷ ICC-02/04-01/05-15-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁸ ICC-02/04-01/05-16-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁹ ICC-02/04-01/05-320.

¹⁰ ICC-02/04-01/05-370-Conf-Exp

¹¹ ICC-02/04-01/05-376-Conf-Exp

NOTING that the Registrar was requested to provide reasons justifying her choice to file the Report as "Confidential Ex parte Registrar" no later than 17 March 2009;¹²

NOTING Articles 19, 43, 87 and 93 of the Rome Statute, Rules 176 and 177 of the Rules of Procedure and Evidence, Regulations 23bis and 24bis of the Regulations of the Court;

RESPECTFULLY SUBMITS the following:

A. Chosen level of Confidentiality:

The Registrar is mindful of the fact that a lot of the information contained in her report also appears in the record of the Case or in the public domain. However, the Registry respectfully submits that, during its mission, the said information was provided by diplomats and Heads of various missions and or organizations to the Republic of Uganda, as part of its external relations activities in the country. Given the generally confidential character of such meetings, and the need for the Registry to be able to have continuing dialogue on the basis of confidentiality with such interlocutors, the Registrar decided to label her report as "Confidential – ex parte Registry".

B. Purpose and intended scope of the mission:

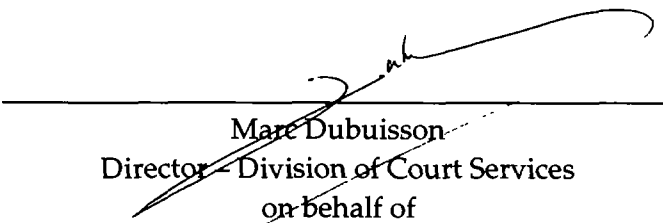
The purpose of the mission of the Registry was to do a follow-up on the status of the arrest and surrender procedures in order to be prepared in the event that the persons, indicted by the Court, were to be transferred into the custody of the Court. During the mission, the Registry was privy to information related to the current

¹² ICC-02/04-01/05-376-Conf-Exp, p. 6.

procedure before the Chamber, namely the procedure initiated under article 19 of the Rome Statute, which she considered may be useful to share with the Chamber .

To ensure that in the future, the correct form and content for its filings is submitted to the Chamber, The Registrar respectfully seeks the guidance of the Chamber on the following:

1. The level of confidentiality that information obtained from diplomatic sources during the Registry's external relations activities should be given in any future filing; and
2. If, during the course of a mission pertaining to an issue within the mandate of the Registry, the Registry comes across information which may be relevant to the Chamber in its decision on a case before it, what the *modus* of transferring such information should be, if the Chamber considers that such information should be shared at all with the Chamber.



Marc Dubuisson
Director - Division of Court Services
on behalf of
Mrs. Silvana Arbia, Registrar

Dated this 17 March 2009

At The Hague, The Netherlands