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No.: ICC-02/04-01/05
Date: 20 October 2006

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Ekaterina Trendafilova

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

IN THE CASE OF
THE PROSECUTOR v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO,
RASKA LUKWIYA AND DOMINIC ONGWEN

Public Document

**REGISTRAR'S SUPPLEMENTARY REPORT ON THE STATUS OF
THE EXECUTION OF THE WARRANTS OF ARREST IN THE SITUATION
IN UGANDA**

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Ms Christine Chung, Senior Trial Lawyer

The Registrar of the International Criminal Court (“the Court”);

NOTING the *Order to the Registrar and the Prosecutor for the submission of information on the status of the execution of the warrants of arrest in the situation in Uganda*, issued by this Chamber on 15 September 2006;¹

NOTING the “Registrar’s report on the status of the execution of the warrants of arrest in the situation in Uganda” dated 6 October 2006;²

NOTING the *Order granting a new deadline to the Registrar for the submission of additional information and comments on the status of cooperation in the Situation in Uganda* issued by this Chamber on 13 October 2006;³

NOTING articles 43(1), 87(1), 87(7) and 89(1) of the Statute, rules 176(2) and 184 of the Rules of Procedure and Evidence and regulation 76(c) of the Regulations of the Registry;

SUBMITS the following additional information on the status of the cooperation of the Republic of Uganda, the Democratic Republic of the Congo and the Republic of the Sudan in respect of execution of the warrants of arrest for Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen;

¹ ICC-02/04-01/05-111.

² ICC-02/04-01/05-118.

³ ICC-02/04-01/05-119.

Cooperation of the Republic of Uganda

In April 2005, the Registrar and the Director of the Division of Court Services paid a preparatory diplomatic visit to Kampala with a view to cooperation with the Government of Uganda on arrests.

Following notification of the warrants of arrest, the Government of Uganda expressed willingness to assist the Court in their execution, and assurances were provided on several occasions.

A joint mission comprising representatives of the Registry and the Office of the Prosecutor met with the ICC Task Force in Kampala in early September 2005 prior to the notification of the warrants of arrest. This task force is a unit comprising government and army representatives, headed by the Minister of Justice and working on Court-related issues. It was provided with a list of preparatory questions, drawn up by the Registry, for the creation of Standard Operating Procedures for arrest and surrender. The aim was to establish, together with the authorities involved, the modus operandi for arrests and to explain the mandate of the Registry with regard to notification. The members of the task force were highly cooperative.

The representatives of the Court also met the Minister of the Interior, who repeated his government's commitment to cooperate fully.

In late September 2005, the Registrar travelled to Kampala in person to notify the warrants of arrest to the Government, through the Minister of Justice and Constitutional Affairs, and was again assured of the Government's resolve to execute the warrants of arrest.

The activities of the Registry in Uganda were reduced during the presidential election held in February 2006.

On 5 April 2006, the Registrar met the Solicitor General, Mr Tibaruha, in Kampala. Mr Tibaruha informed him of the legal restrictions affecting the execution of the warrants of arrest and that the Ugandan authorities were unable to arrest the five suspects inasmuch as they were thought to be on Democratic Republic of the Congo territory.⁴ Subsequent to this letter, and until his contact with the Ugandan authorities following the order issued by this Chamber on 15 September 2006, the Registrar received no new information apart from what has been reported in the media.

The Registrar wishes to note that the efforts made by the Government of Uganda have not yielded any concrete results.

Cooperation of the Democratic Republic of the Congo

The Registrar has increased his activities, to the extent possible, in preparation for any arrests.

The Director of the Division of Court Services travelled to Kinshasa in March 2005 to meet the Ministers of Justice and Defence as well as MONUC representatives.

A seminar for *Cour de Cassation* judges was held in Kinshasa in April 2005 to raise awareness amongst the judiciary of the work of the Court. During this period, the

⁴ Letter of 7 April 2006, Annex 2 of the "Report from the Registrar to Pre-Trial Chamber II regarding the progress conducted by the Republic of Uganda to execute the warrant of arrests" of 12 April 2006, ICC-02/04-01/05-81-US-Exp.

Registrar and the Director of the Division of Court Services met government representatives.

The Registry was invited to, and participated in, a seminar on raising awareness of the work of the Court which was held in Kinshasa in early September 2005 by the Coalition for the ICC.

When the warrants of arrest were notified on 30 September 2005, the Director of the Division of Court Services presented the Principal Public Prosecutor of the Republic with the list of preparatory questions for the creation of Standard Operating Procedures for arrest and surrender. The Principal Public Prosecutor responded in writing on the same day.

The Government of the Democratic Republic of the Congo has repeatedly reiterated its intention to assist the Court in the execution of the warrants, but results have not been convincing. Indeed, the Government has not provided any concrete evidence of action on its part in this matter. The letter of the Principal Public Prosecutor received on 16 October 2006, reporting on the action taken since notification of the arrest warrants, is annexed hereto.

Cooperation of the Republic of the Sudan

The Registrar has received verbal assurances of cooperation in the execution of the warrants of arrest, but to date no report has been received in this regard.

Conclusion

The commitments made by the Governments of Uganda, the Democratic Republic of the Congo, and Sudan in respect of the execution of the warrants of arrest have not

been followed by action. This in no way prejudices any confidential measures which these States may have undertaken as part of their domestic procedures and of which, therefore, the Registrar or the public may not have been made aware.

The Registrar notes that the Office of the Prosecutor has increased its field activities, as specified in its report of 6 October 2006. The Registry has not been informed of these activities and has only been involved on one occasion: a joint mission to Khartoum for the purposes of meeting government officials.

In light of this information, the Registrar

REQUESTS that the Chamber provide clarification of his mandate in light of the decision of 8 July 2005 and the order of 13 October 2006. That order appears to indicate that the Chamber would like the Registry to take a more active approach in its interactions with the competent authorities.

ANNEXES the letter of the Principal Public Prosecutor of the Democratic Republic of the Congo, Mr Tshimanga Mukeba, dated 13 October 2006.

[signed]

**On behalf of the Registrar
Marc Dubuisson
Director
Division of Court Services**

Dated this Friday, 20 October 2006

At The Hague, The Netherlands

Democratic Republic of the Congo
MAY/MLM [flag]

Kinshasa, **13 OCT 2006**

Principal Public Prosecutor's Office
The Principal Public Prosecutor

No. 3433/D.023/9568/PGR/sec/2006.

**To The Registrar of the International
Criminal Court
The Hague, The Netherlands
Fax: +31(0) 70515 85 55**

Re: Joseph Kony et al.

Dear Sir,

I write further to your letter ref. NV/DCS/2005/-138/MR/rd, of 26 September 2006, recalling that on 8 July 2005 Pre-Trial Chamber II of the International Criminal Court issued five warrants of arrest against Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen for crimes against humanity which they are alleged to have committed in Uganda, and made a request to the Democratic Republic of the Congo for the arrest and surrender of the aforementioned persons to the Court.

By my letter ref. 4172/D.023/9568/PGR/-SEC/2005, of 6 October 2006, copies of the warrants of arrest were transmitted to all Public Prosecutors of the Courts of Appeal of the Democratic Republic of the Congo for execution. The Public Prosecutors, in turn, notified the Public Prosecutors in their respective jurisdictions to this end.

The investigations carried out with a view to arresting and identifying them have not yet yielded results. However, the search warrants remain active.

Yours faithfully,

The Principal Public Prosecutor

[stamp and signature]

Tshimanga Mukeba

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