

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

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

Date: 07 October 2005

Original: English

PRE-TRIAL CHAMBER II

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

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

**Under seal
Ex Parte, Prosecutor Only**

**Urgent Application For
Authorization to Make Information Regarding Warrants of Arrest Public and
For Authorization to States and Organizations to Make Public Statements**

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

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

07 October 2005

The OTP respectfully submits this request, on an urgent basis, for authorization for the OTP and Registry to issue public statements today confirming the existence of warrants of arrest and relating the information contained in the warrants, without publicizing the warrants of arrests themselves. The OTP also respectfully requests that the Chamber authorize States and organizations already aware of the existence of the warrants of arrest to make public statements confirming the existence of the warrants. This urgent request is made in light of news stories which appeared late last night and this morning in major media outlets in which it has been stated that the ICC has issued arrest warrants for five top leaders of the LRA. The OTP has provisionally notified the press that it will convene a press conference at 3:00 p.m. today. If there is no decision from the Chamber by this time, the press conference can be cancelled.

Request for Sealing of This Submission

1. Because this submission contains information relating to warrants of arrest which are currently sealed, and relates a confidential communication by the Government of Uganda, the OTP requests that this submission be received under seal, and *ex parte*.

Request for Authorization to OTP and Registrar to Publicize Information Contained in Warrants and for Authorization to States and Organizations To Confirm Existence of Warrants

2. This morning it has been reported in major media outlets that the ICC has issued arrest warrants for five leaders of the LRA. The story is a lead story on the radio BBC News, the Associated Press, Reuters, and Network Africa (in French and English), and was the lead story on BBC Radio News this morning. The stories typically quote Ambassador William Swing, the head of

the UN Mission in the Democratic Republic of Congo, as the source of the information, although it can be assumed, because the information is being published and broadcast, that the media sources have confirmed through other sources the information furnished by him. Comments from other officials, from States (including the Ambassador from Uganda to the United States), and NGOs (Human Rights Watch) are also being quoted.

2. The stories typically state that the ICC has not confirmed the existence of warrants. Some relate that court spokesmen have stated: "no comment." As part of the BBC radio story broadcast this morning, Will Ross, the BBC correspondent in Kampala, repeated comments similar to those which appeared in the BBC article of 4 October 2005. Among other things, he reiterated that there has been a "lack of transparency" on the part of the ICC.
3. Also this morning, the Chief Prosecutor received a telephone call from the Defence Minister of Government of Uganda. The Government of Uganda had previously taken the position, for security and other reasons, that the warrants of arrest should be made public once protective measures were in place. The Defence Minister asked the Chief Prosecutor whether the Government of Uganda was in a position to respond to questioning from the press, by confirming the existence of warrants of arrest and commenting on those warrants of arrest. The Chief Prosecutor indicated that he would need to revert to the Defence Minister after a number of hours.
4. It has already been stated by the OTP in the Court hearings of this week that:
(1) the OTP has been asked by States to make public the now-sealed warrants of arrest; (2) in the view of the OTP, the continued sealing of information

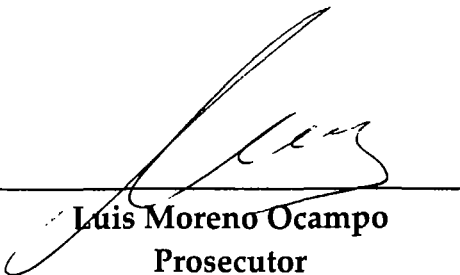
relating to the warrants is less safe for victims and witnesses than unsealing; and (3) it is potentially damaging to the public perception of this Court for representatives of the Court not to be able to respond truthfully to statements in the press about the warrants.

5. Because the warrants are now being openly and widely discussed in the media, and by States and NGOs, it has become imperative for the OTP and the Registry be permitted to make public the existence of the warrants and the information contained in the warrants, including the individuals named, the charges against them, and the factual basis for the charges. Concurrently, the States and organizations already informed of the existence of the warrants should be authorized to make public statements regarding the information contained in the warrants. Among other things, these States and organizations may wish to confirm that they have received notice of the existence of the warrants and to make public efforts made thus far to execute the warrants. In the case of the States, they should be free to state that the warrants have previously been transmitted to them.

Conclusion

For the foregoing reasons, the OTP respectfully requests, on an urgent basis: (1) authorization for the OTP and Registry to issue public statements, as early as 3:00 p.m. today, confirming the existence of warrants of arrest and relating the information contained in the warrants, without publicizing the warrants of arrests themselves; (2) authorization to States and organizations already

aware of the existence of the warrants of arrest to make public statements
confirming the existence of the warrants and describing efforts to execute the
warrants.



Luis Moreno Ocampo
Prosecutor

Dated this 7th day of October, 2005

At The Hague, The Netherlands