

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/04-01/05
Date: 2 November 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
*vs. JOSEPH KONY, VINCENT OTTI, RASKA LUKWITYA, OKOT
ODHIAMBO and DOMINIC ONGWEN***

Public Document

**OTP's Application Regarding Decision on the Prosecutor's Request to
Separate the Senior Legal Adviser to the Pre-Trial Division from
Rendering Legal Advice Regarding the Case**

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

The Office of the Prosecutor (“OTP”) respectfully requests that Pre-Trial Chamber II consider providing clarification of its Decision of 31 October 2006. Pre-Trial Chamber I adjudicated an application to separate the Senior Legal Adviser which presented identical legal reasoning to the application presented in this Chamber. Pre-Trial Chamber I determined that it was not “the appropriate organ of the Court to deal with the matters raised” in the OTP application and that it lacked jurisdiction to consider the Prosecution’s application and the Defence’s response.¹ This Chamber determined to dismiss the Prosecution’s application.² The reasoning behind this Chamber’s decision to dismiss is unexplained but could become relevant in future proceedings. The OTP considers, in the absence of any elaboration from the Chamber, that the Decision does not render any decision on the merits, thus explaining, *inter alia*, this Chamber’s referral of the matter to the Plenary.



Luis Moreno Ocampo
Prosecutor

Dated this 2nd day of November 2006
At The Hague, The Netherlands

¹ *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the Prosecutor’s Application to Separate the Senior Legal Adviser to the Pre-Trial Division from Rendering Legal Advice regarding the Case, ICC-01/04-01/06-623, 27 October 2006, p. 3.

² *Prosecutor v. Joseph Kony et al*, Decision on the Prosecutor’s Application to Separate the Senior Legal Adviser to the Pre-Trial Division from Rendering Legal Advice regarding the Case, ICC-02/04-01/05-124, 31 October 2006, p. 4.