

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/04-01/05
Date: 30 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
*v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO, RASKA LUKWIYA,
DOMINIC ONGWEN***

Public Document

**ORDER TO THE PROSECUTOR FOR THE SUBMISSION OF ADDITIONAL
INFORMATION 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
Mr Eric MacDonald, Trial Lawyer

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

RECALLING the Chamber's "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", dated 15 September 2006¹ ("the Order"), whereby the Chamber requested the Prosecutor to submit information and comments on the status of cooperation with the relevant States and with the Registry as regards the execution of the warrants of arrest issued on 8 July 2005 ("the Warrants");²

NOTING the Prosecutor's "Submission of information on the status of the execution of the warrants of arrest in the situation in Uganda" dated 6 October 2006 ("the Prosecutor's submission");³

NOTING article 89 (1) of the Statute of the Court ("the Statute"), setting forth the obligation of States Parties to comply with the Court's requests for arrest and surrender;

NOTING article 87 (7) of the Statute, pursuant to which, where a State Party fails to comply with a request to cooperate, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties;

NOTING article 87 (5) (b), of the Statute, pursuant to which, when a State not party to the Statute which has entered into an ad hoc arrangement or agreement with the

¹ ICC-02/04-01/05-111.

² Warrants of arrest for Joseph KONY (ICC-02/04-01/05-28-US-Exp); Vincent OTTI (ICC-02/04-01/05-4-US-Exp); Raska LUKWIYA (ICC-02/04-01/05-6-US-Exp); Okot ODHIAMBO (ICC-02/04-1/05-8-US-Exp); and Dominic ONGWEN (ICC-02/04-01/05-10-US-Exp).

³ ICC-02/04-01/05-116.

Court fails to cooperate with requests pursuant to any such arrangement or agreement, the Court may so inform the Assembly of States Parties;

NOTING article 54 (3) (c) of the Statute which vests the Prosecutor with the power to seek cooperation from States;

NOTING article 54 (3) (d) of the Statute, pursuant to which the Prosecutor may “enter into such arrangements or agreements, not inconsistent with this Statute, as may be necessary to facilitate the cooperation of a State”, as well as the arrangements or agreements concluded by the Office of the Prosecutor to that effect;

NOTING Article 18 of the Relationship Agreement between the International Criminal Court and the United Nations dated 4 October 2004, under which the United Nations (UN) and the Prosecutor may enter into arrangements or agreements as may be necessary for the Prosecutor to exercise his duties and powers under article 54 of the Statute;

NOTING further Regulation 28 of the Regulations of the Court, pursuant to which the Chamber may order participants to clarify or to provide additional details on any document within a time limit specified by the Chamber;

REITERATING the need for the Chamber to receive a complete update on the status of the execution of the Warrants and of the ongoing cooperation with the relevant States with a view to exercising its powers and fulfilling its duties, in particular under part 9 of the Statute;

REITERATING further that the specific purpose of the Order was to allow the Chamber to gather any relevant information relating to the status of cooperation which may be available to the Prosecutor at this stage based on his own assessment of the situation and the contacts of his office with the relevant states;

CONSIDERING that since the Prosecutor's Submission on 6 October 2006⁴, several events relevant to the situation in Uganda have occurred in the region, including meetings reported between UN officials and Joseph KONY;

CONSIDERING the need for the Chamber to receive additional information and an update on the information already provided to the Chamber relating to the status of the execution of the Warrants, in light of recent events in the region;

**HAVING REGARD THERETO AND FOR THESE REASONS, THE CHAMBER
HEREBY**

REQUESTS the Prosecutor to provide additional information, on or before Friday 8 December 2006, without prejudice to his powers and functions under the Statute, as follows:

- (1) Whether and to what extent the "regular updates" submitted by the governments of Uganda, the Democratic Republic of the Congo (DRC) and Sudan to the Office of the Prosecutor (OTP)⁵ and their statements concerning the continued "commitment to executing the warrants of arrest"⁶ are supported by concrete

⁴ ICC-02/04-01/05-116

⁵ See paras. 21 and 30 of the Prosecutor's submission.

⁶ See para. 26 of the Prosecutor's submission.

action to that effect and reflect their genuine willingness to cooperate regarding the execution of the Warrants;

- (2) Whether and to what extent the peace negotiations⁷ and recent events in the region have affected the level of cooperation by the relevant governments;
- (3) Whether, in the course of the “missions” by the OTP to Uganda, the DRC and Sudan and “other concerned states”⁸, and the respective “meetings” with government officials⁹, or in other contexts, the OTP received more concrete information on:
- specific initiatives of the relevant governments to execute the Warrants, including requests for assistance addressed to MONUC;¹⁰
 - the “difficulties” and the “operational challenge” encountered by the respective governments in the execution of the Warrants.¹¹

In the affirmative, how would the Prosecutor assess and evaluate such information with respect to the execution of the Warrants.

- (4) Whether the Prosecutor, in light of recent events and reported meetings of UN officials with Joseph KONY, has requested or intends to request cooperation from the UN for the purpose of supporting the execution of the Warrants.

⁷ See paras. 23 and 24 of the Prosecutor’s submission.

⁸ See paras. 21 and 22 of the Prosecutor’s submission.

⁹ See paras. 21 and 26 of the Prosecutor’s submission.

¹⁰ See paras. 18 and 26 of the Prosecutor’s submission.

¹¹ See para. 24 of the Prosecutor’s submission.

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

Mauro Politi

Judge Mauro Politi
Presiding Judge

Fatoumata Dembele Diarra

Judge Fatoumata Dembele Diarra

Ekaterina Trendafilova

Judge Ekaterina Trendafilova

Dated this 30th day of November 2006

At The Hague

The Netherlands