

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 5 April 2007

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**

**Confidential
Ex Parte, Prosecutor Only
DECISION ON PROSECUTOR'S URGENT APPLICATION TO OBTAIN
GUIDANCE REGARDING TIMING AND MANNER OF TRANSMISSION OF
REQUESTS FOR ARREST AND SURRENDER TO THE CENTRAL AFRICAN
REPUBLIC**

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");

NOTING the Chamber's "Decision to Issue Requests for Arrest and Surrender to the Central African Republic", dated 21 March 2007¹ (the Chamber's "Decision to Issue Requests for Arrest and Surrender"), by which the Chamber decided to issue requests for arrest and surrender of **JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO** and **DOMINIC ONGWEN** (the "Requests"), to be transmitted by the Registrar to the Central African Republic (the "CAR");

NOTING the Prosecutor's "Urgent Application to Obtain Guidance regarding Timing and Manner of Transmission of Requests for Arrest and Surrender to the Central African Republic", dated 2 April 2007², in which the Prosecutor seeks the Chamber's guidance on whether "it wishes the transmission to the Central African Republic to occur on or about 19 April 2007 or before that date"³ and requests that the Chamber "consider ordering that the Decision to Transmit Requests to the CAR [...] and the requests for arrest and surrender naming **KONY, OTTI, ODHIAMBO** and **ONGWEN** [...] may be reclassified as Public once transmission is accomplished"⁴;

NOTING the Prosecutor's "Clarification to Urgent Application to Obtain Guidance Regarding Timing and Manner of Transmission of Requests for Arrest and Surrender to the Central African Republic", dated 3 April 2007⁵;

¹ ICC-02/04-01/05-224-Conf-Exp.

² ICC-02/04-01/05-235-Conf-Exp.

³ *Ibid.*, p. 11.

⁴ *Ibid.*, para. 10.

⁵ ICC-02/04-01/05-237-Conf-Exp.

NOTING the “Clarifications du Greffier suite à la requête du Procureur” dated 3 April 2007⁶, by which the Registrar confirms 19 April as the proposed date of transmission of the Requests as well as the necessity to transmit the Requests by way of personal transmission;

RECALLING that, in its Decision to Issue Requests for Arrest and Surrender, the Chamber did not set a deadline, nor provide any specific direction as to the manner of transmission of the Requests;

CONSIDERING that, in the absence of specific direction by the Chamber, the Registrar, as the competent organ under rule 176 of the Rules of Procedure and Evidence, is responsible for determining the timing and manner of the transmission of the Requests;

CONSIDERING, therefore, that no further “guidance” from the Chamber is needed at this stage for the Registrar to proceed with the transmission;

RECALLING that in its Decision to Issue Requests for Arrest and Surrender the Chamber considered that preserving confidentiality would contribute to support arrest efforts;

CONSIDERING that neither the fact that alleged or possible movements of the Lord’s Resistance Army have been “widely and publicly reported”⁷, nor that “the matter of apprehending the persons whose arrest is sought is manifestly a regional and international issue”⁸ detract from the need for confidentiality in the process of

⁶ ICC-02/04-01/05-238-Conf-Exp.

⁷ ICC-02/04-01/05-235, paragraph 11.

⁸ *Ibid.*

arrest and surrender, namely to preserve or enhance the likelihood that the persons sought by the Court in the situation in Uganda will actually relocate to or remain in the CAR;

CONSIDERING also that the purpose of the transmission to the CAR is not “to deter [the] LRA from further movement into the Central African Republic”⁹, but rather to better serve the objective of securing the arrest of the persons sought by the Court in the situation in Uganda, in the event that those persons were actually to relocate to and/or be located in the CAR;

CONSIDERING, therefore, that the Chamber remains of the view that at this stage preserving confidentiality may enhance the likelihood of the execution of the arrest warrants in the CAR;

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

REJECTS the Prosecutor’s request for guidance concerning a specific date for transmission of the Requests;

DECIDES to keep the Decision to Issue Requests for Arrest and Surrender, the Requests and this decision confidential, *ex parte*, Prosecutor only, until further order by the Chamber.

⁹ ICC-02/04-01/05-235-Conf-Exp, paragraph 12.

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 5th day of April 2007

At The Hague, The Netherlands