



Original: **English**

No.: **ICC-02/04-01/15**

Date: **8 May 2015**

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

**SITUATION IN UGANDA
IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

Public

**Public redacted version of "The Registry's Report on the mission to Uganda"
(ICC-02/04-01/15-152-Conf-Exp)**

Source: The Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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

NOTING the warrant of arrest for Joseph KONY, issued by the Chamber on 8 July 2005, as amended on 27 September 2005¹, and the warrants of arrest issued for Vincent OTTI,² Okot ODHIAMBO,³ and Dominic ONGWEN⁴ on 8 July 2005;

NOTING the request for arrest and surrender of Joseph KONY, dated 8 July 2005, as amended on 27 September 2005,⁵ and the requests for arrest and surrender of Vincent OTTI,⁶ Okot ODHIAMBO⁷ and Dominic ONGWEN⁸ to the Republic of Uganda, dated 8 July 2005;

NOTING the *“Decision initiating proceedings under article 19, requesting observations and appointing counsel for the Defence”*⁹, issued by the Pre-Trial Chamber II (the “Chamber”) on 21 October 2008;

NOTING articles 19 and 59 of the Rome Statute, and Regulation 24 bis of the Regulations of the Court;

RESPECTFULLY submits the following;

¹ ICC-02/04-01/05-53.

² ICC-02/04-01/05-54.

³ ICC-02/04-01/05-56.

⁴ ICC-02/04-01/05-57.

⁵ ICC-02/04-01/05-29-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁶ ICC-02/04-01/05-13-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁷ ICC-02/04-01/05-15-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁸ ICC-02/04-01/05-16-US-Exp, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

⁹ ICC-02/04-01/05-320.

1. Context:

Further to the decisions of 8 July and 27 September 2005, and in the context of the decision to initiate proceedings under article 19 of the Rome Statute, the Registry wishes to provide information to the Chamber on the possible surrender of Okot Odhiambo, and on the modalities currently in place in Uganda for arrest and surrender of persons against whom an ICC arrest warrant has been issued.

For this purpose, the Registry went to Kampala, Uganda and met with the ICC-Uganda Task Force (the Task Force), with officials from the embassies of the Netherlands, Belgium, United States of America, France, United Kingdom, with the [REDACTED] and with the Chief of Party of the pro bono law firm Public International Law and Policy Group (PILPG).

2. Findings

[REDACTED]

(b) Modalities for arrest and surrender of ICC suspects

The Task Force confirmed the following: the ICC Bill, which would domesticate the Rome Statute into Ugandan law, is still at the committee stage in parliament, and has not yet had its first reading. There is thus no national law recognizing the crimes in the ICC arrest warrant against Kony, Otti, Odhiambo and Ongwen, the ICC arrest warrant itself had no force under national law and there were no legal procedures to transfer the suspects to the ICC as national law only contemplated extradition to states. The Task Force saw no way of overcoming these obstacles. In spite of the above, the Task Force stressed the Government's wish to cooperate with the ICC and to transfer the suspects to the ICC.

(c) National Proceedings

Most interlocutors expressed doubt on whether Odhiambo and Ongwen would be transferred to the ICC, should they surrender to the Ugandan authorities. Allegedly, the Ugandan authorities prefer to hold national trials for these LRA commanders, and the Special War Crimes Division of the Ugandan High Court (Special Division) would be the most likely forum. The Task Force has denied this, a position which has been confirmed in a letter to the Registrar on 16 February 2009¹⁰.

The Registry can report that the Special Division has been administratively created, that judges have been appointed to the Special Division and that Principal Judge James Ogoola has been tasked with leading a task force to make the Special division operational. Preparations for holding trials in the Special Division, however, do not appear to be far advanced, and problems such as the retrospective application of the crimes remain.

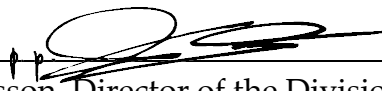
The Public International Law and Policy Group (PILPG) are assisting the Government with the setting up of the Special Division within the context of a wider Transitional Justice Program, [REDACTED]. In this respect, they are advising the Government on the legislative framework needed, which may take the form of amending the ICC Bill, and on the issue of the retrospective application of crimes. They are also advising on the Ugandan Authorities' obligations under the Rome Statute, including the ongoing admissibility review. PILPG are of the view that the LRA commanders could be tried nationally, in the Special Division, without breaching Uganda's obligations under the Rome Statute.

¹⁰ ICC-02/04-01/05-369-Anx2

4. Conclusion:

Taking into consideration the above mentioned information, the Registry respectfully suggests the following actions to the Chamber:

- To grant PILPG the status of amicus curiae and to request their view on the capacity of the Special Division of the High Court to try war crimes in Uganda;
- To seek the views of the Government of Uganda, by way of an appearance in court or any other mean, on what modalities they intend to use in order to execute the arrest and surrender of the persons against whom ICC arrest warrants have been.



Marc Dubuisson, Director of the Division of Court Services
per delegation of
Herman von Hebel, Registrar

Dated this 8 May 2015

At The Hague, the Netherlands