

Annex D

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

Office of the Prosecutor

Our Reference: OTP/20040728-Article18Notification.Uganda

28 July 2004

Your Excellency,

In accordance with article 18(1) of the Rome Statute, I have the honour to notify you that I have determined that there is a reasonable basis to commence an investigation into crimes allegedly committed in northern Uganda since the entry into force of the Rome Statute on 1 July 2002.

Acting pursuant to articles 13(a) and 14 of the Rome Statute, the Republic of Uganda has referred the situation concerning crimes committed in northern Uganda within the context of the on-going conflict involving the Lord's Resistance Army, requesting that my Office investigate those crimes in order to determine whether or not to undertake prosecutions.

Since that date, in accordance with article 53 and Rule 104 of the Rules of Procedure and Evidence, my Office has carried out an analysis and sought additional information on the situation in northern Uganda, focusing on issues relating to jurisdiction, admissibility and the interests of justice, in order to determine whether there is a reasonable basis to initiate an investigation.

Having become a State Party to the Statute on 14 June 2002, the Republic of Uganda submitted, on 27 February 2004, a declaration, under articles 11(2) and 12(3) of the Statute, accepting the jurisdiction of the Court with regard to crimes committed since 1 July 2002.

The information currently available shows that widespread and brutal attacks have been committed against the civilian population of northern Uganda within the context of the on-going conflict involving the Lord's Resistance Army. Crimes allegedly committed as part of the widespread victimization include, but are not limited to murder, torture, mutilation, rape, sexual slavery and child conscription. The conflict has resulted in thousands of killings, and massive displacement, and has had a devastating impact on northern Uganda. Having carefully evaluated the available information in accordance with article 53(1)(a) of the Statute, I have found that there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been, or are being, committed.

Under the principle of complementarity, cases are admissible before the ICC where no national proceedings have been conducted, or where such proceedings are conducted but the state concerned is unwilling or unable to carry out the proceedings genuinely. The Republic of Uganda has indicated that the ICC is the most appropriate and effective forum for the investigation and

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prosecution of those bearing the greatest responsibility for the crimes within the referred situation, given the gravity of the crimes, the interests of the victims and the need to further national reconciliation and rehabilitation. Accordingly, in relation to those bearing the greatest responsibility for crimes committed in northern Uganda, the Ugandan authorities have not and do not intend to conduct national proceedings, preferring instead that the cases be dealt with by the ICC. With this in mind, I have determined, in accordance with article 53(1)(b) of the Statute, that the situation involves cases that would be admissible under article 17 of the Statute.

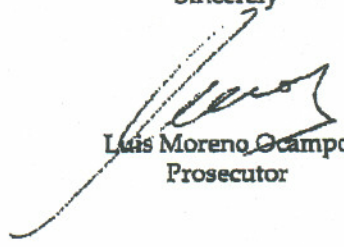
Article 53(1)(c) of the Statute also requires me to consider whether, taking into account the nature and gravity of the crimes and the interests of the victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. I have analysed the situation and given all views expressed very careful consideration. At this time, there are no substantial reasons to believe that an investigation would not serve the interests of justice. As the investigation proceeds, we will ensure that this requirement is kept under constant review and that the work of the Office contributes to the process of seeking peace.

In accordance with article 18(2) of the Statute, I invite you to inform the Court within one month of receipt of this notification, if your state is investigating, or has investigated its nationals or others within its jurisdiction with respect to criminal acts committed in northern Uganda, which may constitute crimes under article 5 of the Statute and which relate to the information provided in this notification.

As emphasized in my public policy paper, I will focus my investigative and prosecutorial efforts and resources on those who bear the greatest responsibility for the crimes committed in northern Uganda within the jurisdiction of the Court. This focus is acutely relevant in relation to the situation in northern Uganda where many of the alleged perpetrators are themselves victims, including those children who have been abducted. Relevant and effective national processes will be necessary to ensure meaningful and lasting reconciliation and reintegration. I look forward to your support in working to advance these ends.

Please accept, your Excellency, the renewed assurances of my highest regard.

Sincerely



Luis Moreno Ocampo
Prosecutor

TO ALL STATES PARTIES TO THE ROME STATUTE
OF THE INTERNATIONAL CRIMINAL COURT