

1 International Criminal Court

2 Pre-Trial Chamber III

3 Situation Central African Republic - ICC-01/05

4 Ex Parte - Prosecution and Registry - Closed Session - Reclassified to Public

5 Friday, 23 May 2008

6 The hearing starts at 11.03 a.m.

7 JUDGE DIARRA (interpretation): (No interpretation).

8 THE INTERPRETER: (No interpretation).

9 JUDGE DIARRA: Okay. (Interpretation) Could the Prosecutor
10 please introduce his team.

11 THE INTERPRETER: Microphone, please.

12 MS. KNEUER: Your Honour, the team for the Office of the
13 Prosecutor is composed of Mr. Massimo Scaliotti, Trial Attorney;
14 Mr. Jean-Jacques Baribanga, Team Leader from the Investigation Division;
15 Ms. Miriam Spittler, Assistant Legal Advisor to JCCD. My name is Petra
16 Kneuer. I am the Senior Trial Lawyer from the Prosecution Division.
17 Thank you.

18 JUDGE DIARRA (interpretation): And the Registry, please.

19 MR. DUBUISSON (interpretation): With me on the Registry bank --
20 bench, rather, is Charlotte Dahuron, Chief of the Court Management
21 Services; and myself, Marc Dubuisson, Director of the Division of Court
22 Services representing the Registrar.

23 JUDGE DIARRA (interpretation): Prosecutor, we are here in
24 relation to your application for an ex parte hearing. We would like to
25 give the floor to you.

1 MS. KNEUER: Thank you again, your Honours. The Prosecution got
2 an aware recently that the target is moving, and in our filing we -- we
3 expressed our concern that he might avoid apprehension. That is the
4 reason why we filed this motion for urgent consideration and the hearing
5 to be held today to elaborate with you the options how to proceed.

6 JUDGE DIARRA (interpretation): Thank you very much, but the
7 information which you have just given us orally was clearly set out in
8 your application, so if you please, do move directly to the options.

9 MS. KNEUER: The -- the crucial point is that at -- at this time
10 we know where the target resides. He is in Brussels. So our suggestion
11 is that the court reconsiders its decision on an expedited decision on
12 the arrest warrant, and in the best case scenario is issuing the arrest
13 warrant today and is continuing under Article 92 of the Rome Statute to
14 request a provisional arrest to the Belgian authorities. We have strong
15 indications that the target will leave the country. We don't know -- on
16 Sunday, May 25th. We don't know to which destination. Right now we
17 would be in a position to locate him and to arrest him.

18 Therefore, again, an option is if you are satisfied with the
19 information provided in the Arrest Warrant Application, that you may want
20 to take a decision today about the arrest warrant itself.

21 JUDGE DIARRA (interpretation): Prosecutor, we understand the
22 urgency of the application for an arrest warrant, but we are surprised
23 about your silence in relation to a decision taken by the Chamber
24 requesting additional information from you. You understand the
25 importance of that information in order for us to examine each of the

1 counts which you enumerate in your application. You have not said that
2 the information will follow, rather you remain silent on it.

3 As you know, the Presiding Judge of this Chamber is
4 French-speaking. Showing goodwill -- it would have been showing goodwill
5 to attach a French version to your application this morning.

6 MS. KNEUER: First of all, I apologise that we were not able to
7 provide you a French version. We try to avoid that the next time. I am
8 very sorry about that.

9 With respect to the additional information you requested, they --
10 we are about to retrieve them currently, and we are ready to submit them
11 on very short notice.

12 JUDGE DIARRA (interpretation): Thank you. I wish now to hand
13 the floor to Judge Kaul should he have supplementary questions.

14 Judge Kaul, please.

15 JUDGE KAUL: Thank you very much. I would be interested to know
16 how -- how the chances of actually apprehending and arresting would be
17 according to the best possible assessment of the Prosecutor. If you
18 don't know whether this is possible, if the request of the Prosecution
19 would -- would be adhered to by the Chamber.

20 MS. KNEUER: I kindly request a recess of five minutes to consult
21 with my colleagues.

22 JUDGE DIARRA (interpretation): The hearing can adjourn -- or
23 court can adjourn for five minutes, or we can remain in the courtroom and
24 allow you a five-minute recess.

25 Recess taken at 11.11 a.m.

1 On resuming at 11.13 a.m.

2 JUDGE DIARRA (interpretation): The hearing resumes. Prosecutor,
3 please.

4 MS. KNEUER: The possibility of a successful arrest of the target
5 is very, very high if the Pre-Trial Chamber would issue an arrest warrant
6 today.

7 JUDGE DIARRA (interpretation): Would the Registry like to add
8 observations to what has been said? Mr. Dubuisson.

9 MR. DUBUISSON (interpretation): Yes, your Honour. Without
10 prejudice to any decision taken by the Chamber, on the basis of the
11 application by the Prosecutor to this Chamber and given that the weekend
12 is to begin, it would be important to make rapid contact with the
13 requested state so that it can react to any request. Should a
14 notification be made based on a decision, measures need to take place
15 today so that serving the warrant could take place tomorrow at 10.00 at
16 the latest, to be followed by an arrest within hours.

17 JUDGE DIARRA (interpretation): Would Judge Trendafilova like to
18 put questions to the Prosecutor?

19 JUDGE TREDAFILOVA: The representative of the Prosecution's
20 office made several points. The first one was asking the Chamber to
21 reconsider expediting the proceedings.

22 On behalf of my colleagues I would like to say, and myself, that
23 the Chamber never had the intention of delaying proceedings, and the
24 Chamber in our previous decisions only reminded to the Prosecution's
25 office that that is a matter principle according to which all the -- the

1 bodies of the court are supposed to perform their functions.

2 My second point is -- and we are going to do our best in order to
3 consider to the overall goal that not only the Prosecution has but the
4 ICC as an international institution.

5 Second point I would like to make is that in your urgent
6 application to the Chamber as of this morning, in paragraph 13(i), you
7 say -- (i) you say that you would like have an ex parte hearing in closed
8 session with the Chamber in order to further elaborate on your request.

9 Until now, you did not share anything in addition to what we have
10 very carefully considered in your application. Your only point that you
11 made was without submitting the required additional information and
12 material for the Chamber to go ahead, and of course the Chamber is
13 supposed to take a proper decision, and we are going to go ahead had on
14 the basis of what we have, but just to remind you that the Chamber is
15 still waiting for what we have asked in our decision.

16 Are you going to further elaborate on your request to add
17 something in addition to what we have read, because till now we did not
18 hear anything in addition to the information that was submitted in this
19 application.

20 Thank you.

21 MS. KNEUER: To respond to your first remark, it is very well
22 understood by the Prosecution that the court, the Chamber, is not
23 delaying the process at all and that the Pre-Trial Chamber is, of course,
24 always acting on expedited manner. This is very well understood.

25 However, since we received the new information that the target is

1 about to move or he already left Portugal to Brussels, and there are
2 indications that he would leave Brussels as well soon. Our interest was
3 to convey that to you, to underline the expedited manner.

4 With respect to your second observation, we do not have
5 additional information in terms of the substance of his movement. We
6 requested this hearing with the intent to further elaborate, to express
7 more deeply the urgency and to also respond to possible questions you
8 might have, but the fact is that the target is moving, and we -- the only
9 time we can guarantee his location is until Sunday if the information
10 that was provided to us is correct or turns out to be correct. To that
11 extent, no, we do not have further information.

12 Does that answer your question?

13 JUDGE TREDAFILOVA: Yes. Thank you.

14 JUDGE DIARRA (interpretation): Prosecutor, the Chamber has
15 demonstrated due care, has taken steps irrespective of the absence of the
16 French version of your application. The evidence of that is that we have
17 called this hearing this morning.

18 As regards the limitation of number of pages, we've not yet had a
19 response on that.

20 We take note of the information which you have added and of your
21 application. We shall deliberate on it, and we shall inform you of our
22 decision within the following hours.

23 Court is adjourned.

24 The hearing ends at 11.20 a.m.

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