

**Cour
Pénale
Internationale**

**International
Criminal
Court**

5 July 2004

ICC-01/04

Original:
English

PRESIDENCY

Before : Judge Philippe Kirsch, President

Judge Akua Kuenyehia, First Vice-President

Judge Elizabeth Odio Benito, Second Vice-President

Mr. Bruno Cathala, Registrar

SITUATION IN THE DEMOCRATIC REPLUBLIC OF CONGO

Public Document

**DECISION ASSIGNING THE SITUATION IN THE DEMOCRATIC REPUBLIC
OF CONGO TO PRE-TRIAL CHAMBER I**

**The Office of the Prosecutor
Mr. Luis Moreno Ocampo, Prosecutor**

THE PRESIDENCY of the International Criminal Court (“the Court”);

NOTING article 38 of the Rome Statute of the International Criminal Court (“the Statute”);

NOTING the Decision Constituting Pre-Trial Chambers, issued by the Presidency on 23 June 2004;

NOTING the letter from the Prosecutor, dated 17 June 2004, annexed to this decision, in which the Prosecutor formally informed the President of the Court of, *inter alia*,

- (i) the referral received in March 2004 from the Government of the Democratic Republic of Congo;
- (ii) the public announcement on 19 April 2004 of the said referral; and
- (iii) the Prosecutor’s determination, under article 53 of the Statute and rule 104 of the Rules of Procedure and Evidence, that there is reasonable basis to initiate an investigation;

NOTING articles 12, 13 and 14 of the Statute;

NOTING regulation 46(2) of the Regulations of the Court (“Regulations”), pursuant to which the Presidency shall assign a situation to a Pre-Trial Chamber as soon as the Prosecutor has informed the Presidency in accordance with regulation 45;

CONSIDERING regulation 45 of the Regulations, pursuant to which the Prosecutor shall, *inter alia*, inform the Presidency in writing as soon as a situation has been referred to the Prosecutor by a State Party under article 14 of the Statute; and provide

the Presidency with any other information that may facilitate the timely assignment of a situation to a Pre-Trial Chamber;

HEREBY DECIDES that the situation in the Democratic Republic of Congo be assigned to Pre-Trial Chamber I, with immediate effect.

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



Judge Philippe Kirsch
President

Dated this fifth day of July 2004

At The Hague

The Netherlands

Cour
Pénale
Internationale

International
Criminal
Court

Office of the Prosecutor

The Hague, 17 June 2004

Dear President Kirsch,

I would like to take this opportunity to inform you formally of the two referrals received prior to the adoption of the Regulations.


In December 2003, my Office received a referral from the government of Uganda. The referral was provided in confidence, and hence I informally advised you of the referral on condition of confidentiality. On 29 January 2004, the President of Uganda agreed that confidentiality was not required with respect to the fact that the referral was made, and hence the receipt of the referral was publicly announced.

The letter of referral made reference to the "situation concerning the Lord's Resistance Army". My Office has informed the Ugandan authorities that we must interpret the scope of the referral consistently with the principles of the Rome Statute, and hence we are analyzing crimes within the situation of northern Uganda by whomever committed. In addition to the referral the government of Uganda has made a declaration under article 12, paragraph 3, of the Rome Statute, accepting the jurisdiction of the Court as of the entry into force of the Rome Statute, and hence temporal jurisdiction extends back to 1 July 2002. As required under Article 53 of the Statute and Rule 104, my Office is currently conducting analysis and seeking additional information in order to support a determination under Article 53 on the Northern Uganda situation.

In March 2004, my Office received a referral from the government of the Democratic Republic of the Congo (DRC). The letter was dated 3 March 2004, but was submitted to my Office some time later, at which point I promptly informed you on an informal basis. Following additional discussions with the DRC authorities, receipt of the referral was publicly announced on 19 April 2004. The referral includes crimes within the jurisdiction of the Court committed within the territory of the DRC since 1 July 2002.

As required under Article 53 of the Statute and Rule 104, my Office has conducted analysis and sought additional information in order to support a determination under Article 53 on the DRC situation. Having considered all of the criteria, I have determined that there is a reasonable basis to initiate an investigation. It is my intention to send letters of notification to the States Parties to the Rome Statute, in accordance with article 18 of the Rome Statute, on Monday 21 June. I attach an advance draft of the letter for your information.

Yours faithfully,


Luis Moreno Ocampo
Chief Prosecutor

cc: Bruno Cathala, Registrar