

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

No.: ICC-02/04-01/05  
Date: 21 October 2008

**PRE-TRIAL CHAMBER II**

**Before:** Judge Mauro Politi, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Ekaterina Trendafilova

**SITUATION IN UGANDA  
IN THE CASE OF  
THE PROSECUTOR *v.* JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO,  
DOMINIC ONGWEN**

**Public Document**

**Request for information from the Democratic Republic of the Congo on the status  
of execution of the warrants of arrest**

**Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**  
Mr Luis Moreno Ocampo  
Ms Fatou Bensouda

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the 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**  
The Government of the Democratic  
Republic of the Congo

**Amicus Curiae**

## **REGISTRY**

---

**Registrar**  
Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**PRE-TRIAL CHAMBER II** (the “Chamber”) of the International Criminal Court (the “Court”);

**RECALLING** the warrant of arrest for Joseph KONY, issued by the Chamber on 8 July 2005, as amended on 27 September 2005,<sup>1</sup> and the warrants of arrest issued for Vincent OTTI,<sup>2</sup> Okot ODHIAMBO,<sup>3</sup> and Dominic ONGWEN<sup>4</sup> on 8 July 2005 (the “Warrants”), in the case of the *Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* (“the Case”);

**RECALLING** the requests for arrest and surrender to the Democratic Republic of the Congo (the “DRC”) of Joseph KONY,<sup>5</sup> Vincent OTTI,<sup>6</sup> Okot ODHIAMBO<sup>7</sup> and Dominic ONGWEN<sup>8</sup>, all dated 27 September 2005;

**NOTING** the response by the Republic of Uganda to the Chamber’s “Request for further information from the Republic of Uganda on the status of execution of the warrants of arrest” annexed to the Report by the Registrar dated 10 July 2008 (the “Ugandan Response”), stating that the Lord’s Resistance Army (the “LRA”) “has for more than three years been based in Garamba National Park in the Democratic Republic of Congo”;<sup>9</sup>

**NOTING** several recent media reports, concurringly referring that some of the persons whose arrest is sought by the Court remain currently based in the DRC;<sup>10</sup>

---

<sup>1</sup> ICC-02/04-01/05-53.

<sup>2</sup> ICC-02/04-01/05-54.

<sup>3</sup> ICC-02/04-01/05-56.

<sup>4</sup> ICC-02/04-01/05-57.

<sup>5</sup> ICC-02/04-01/05-30, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

<sup>6</sup> ICC-02/04-01/05-31, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

<sup>7</sup> ICC-02/04-01/05-32, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

<sup>8</sup> ICC-02/04-01/05-33, reclassified as public pursuant to Decision ICC-02/04-01/05-135.

<sup>9</sup> ICC-02/04-01/05-305-Anx2, page 3.

<sup>10</sup> <http://voanews.com/english/archive/2008-08/2008-08-22-voa44.cfm?CFID=51184857&CFTOKEN=44469201> ; <http://news.bbc.co.uk/2/hi/africa/7631038.stm> ;

<http://news.bbc.co.uk/1/hi/world/africa/7635719.stm> ;

**NOTING** the statement by the Prosecutor on 6 October 2008, calling for “renewed efforts to arrest” the LRA leader Kony “and his top commanders” in light of “serious and converging information on attacks by the LRA against civilians” in the DRC allegedly carried out on 17 and 18 September 2008 against villages in the Haut Uelé District of the DRC (Dungu Territory), which attacks would have included actions such as “markets surrounded and looted, students abducted from school, properties burned and dozens of civilians killed” and would have resulted in “tens of thousands” of civilians being displaced;<sup>11</sup>

**NOTING** article 89 (1) of the Statute of the Court (“the Statute”), setting forth the obligation of States Parties to comply with the Court’s requests for arrest and surrender;

**NOTING** article 87 (7) of the Statute, according to which, when a State Party fails to comply with a request to cooperate, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties;

**NOTING** regulation 46 (2) of the Regulations of the Court (“the Regulations”), according to which the Pre-Trial Chamber “shall be responsible for any matter, request or information arising out of the situation assigned to it”;

**NOTING** rule 176 (2) of the Rules of Procedure and Evidence of the Court (“the Rules”), according to which the Registrar “shall transmit the requests for cooperation made by the Chambers and shall receive the responses, information and documents from requested States”;

---

[http://www.monitor.co.ug/artman/publish/opinions/Don t wait for Kony to cross border again 72436.shtml](http://www.monitor.co.ug/artman/publish/opinions/Don_t_wait_for_Kony_to_cross_border_again_72436.shtml) .

<sup>11</sup> <http://www.icc-cpi.int/press/pressreleases/427.html>

**NOTING** rule 184 of the Rules, providing that the surrender of the person(s) sought by the Court shall be a matter of arrangements between the requested State and the Registrar;

**NOTING** regulation 76 (c) of the Regulations of the Registry, pursuant to which the Registrar shall request national authorities to inform him without delay “of any problem that may impede or prevent the execution of the request for arrest and surrender”;

**CONSIDERING** the importance of the execution of the Warrants for the effective investigation and prosecution as well as for the prevention of the commission of further crimes;

**CONSIDERING** that recent events having taken place in the territory of the DRC make it of the utmost urgency that the Chamber receive from the DRC a complete update on the status of the execution of the Warrants and of the Requests, with a view to exercising its powers and fulfilling its duties, in particular under part 9 of the Statute;

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

**REQUESTS** the Democratic Republic of the Congo to provide the Chamber, at the earliest convenience, preferably no later than 17 November 2008, with detailed information on the measures taken for the execution of the Warrants;

**ORDERS** the Registrar to promptly transmit this request to the Government of the Democratic Republic of the Congo.

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 Tuesday, 21 October 2008

At The Hague, The Netherlands