

**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 2005,¹ and the warrants of arrest issued for Vincent OTTI,² Okot ODHIAMBO,³ and Dominic ONGWEN⁴ 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,⁵ Vincent OTTI,⁶ Okot ODHIAMBO⁷ and Dominic ONGWEN⁸, 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”;⁹

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;¹⁰

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

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

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

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

⁹ ICC-02/04-01/05-305-Anx2, page 3.

¹⁰ <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;¹¹

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) .

¹¹ <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