

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/05**

Date: **22 January 2015**

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Christine Van den Wyngaert
Judge Cuno Tarfusser

SITUATION IN UGANDA

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

CONFIDENTIAL

Ex parte only available to the Prosecution and the Defence
with ten confidential annexes, *ex parte* only available to the Prosecution and the
Defence

**Report of the Registry on the voluntary surrender of Dominic Ongwen and his
transfer to the Court**

Source: The Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for the Defence

M. Hélène Cissé

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Patrick Craig

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court ("the Court")

NOTING the "*Decision assigning the situation in Uganda to Pre-Trial Chamber II*" issued by the Presidency on 5 July 2004;¹

NOTING the "*Decision on the Prosecutor's Application for Warrants of Arrest under article 58*", issued by Pre-Trial Chamber (hereinafter the "Chamber") II on 8 July 2005;²

NOTING the "*Warrant of arrest for Dominic Ongwen*" issued by the Chamber on 22 August 2006;³

NOTING the "*Request to the Central African Republic for the Arrest and Surrender of Dominic Ongwen*" issued by the Chamber on 21 March 2007;⁴

NOTING the "*Decision on Setting the Date for the Initial Appearance of Dominic Ongwen and the Date for a Status Conference*" issued by the Chamber on 21 January 2015 deciding to convene the hearing for the initial appearance of Mr. Ongwen on Monday, 26 January 2015 at 14.00 hours;⁵

NOTING the Chamber's instruction to the Registry that the report on the surrender of Dominic Ongwen needs to be filed by Thursday 22 January 2015;

NOTING articles 89 and 91 of the Rome Statute, rules 176 (2) and 187 of the Rules of Procedure and Evidence, Regulation 23 *bis* of the Regulations of the Court and Regulation 176 of the Regulations of the Registry;

¹ ICC-02/04-1;

² ICC-02/04-01/05-1-US-Exp, unsealed pursuant to Decision ICC-02/04-01/05-52 dated 13 October 2005;

³ ICC-01/04-01/05-10-Conf, reclassified as confidential pursuant to Pre-Trial Chamber II's instructions dated 15-01-2015;

⁴ ICC-01/04-01/05-227-Conf-Exp

⁵ ICC-02/04-01/05-418.

REPORTS, respectfully, to the Chamber as follows:

1. On Friday 16 January 2015 at approximately 17.55 hours, upon agreement with the African Union and with the technical assistance of the US special forces and the Uganda People's Defence Force (UPDF), Dominic Ongwen arrived in Bangui and was immediately handed over to the Central African Authorities, namely the Procureur-général près du Cour d'Appel de Bangui and the Procureur de la République.

2. Upon the arrival of Dominic Ongwen in Bangui, the Central African Authorities proceeded with the formal identification of Dominic Ongwen. The latter confirmed his identity as being Dominic Ongwen YY, a Ugandan national, born in 1975 in Amuru District and brigadier of the LRA (see annex 1 to this present document). The Central African judicial authorities decided to use an Acholi interpreter as Mr Ongwen's knowledge of the English language was rather limited. As the Central African authorities did not have such interpreter available, the Registry made an Acholi interpreter available to the competent authorities of the Central African Republic.

3. Before proceeding further and exercising their jurisdiction under *inter alia* article 59 of the Rome Statute in relation to Dominic Ongwen, the Central African authorities questioned Mr Ongwen as to his intention to voluntary surrender to the Court. Mr Ongwen confirmed clearly that it indeed was his intention to voluntary surrender to the Court (see annex 2 to this present document). Considering the voluntary surrender of Mr Ongwen to the Court, the Procureur-général près du Cour d'Appel de Bangui decided not to exercise his jurisdiction and to immediately proceed with the transfer of custody of Mr Ongwen to the representatives of the Court.

4. At 18.53 hours, the Central African Authorities handed the custody of Mr Ongwen over to the International Criminal Court (see annex 3 to this present document). Following the transfer of custody, the authorities of the Central African Republic left the room.

5. After introducing themselves, the Registry representatives requested Mr Ongwen whether he would want the assistance of a Duty Counsel and, should he so wish, such a Duty Counsel could be made available to him. Mr Ongwen indicated that he would want to benefit from the assistance of a lawyer and consequently the Registry representatives introduced M. H el ene Cisse, Duty Counsel, to Dominic Ongwen.

6. The Registry representatives reconfirmed 1) the identity of Mr Ongwen, 2) his preference to use the Acholi language and 3) his voluntary surrender to the Court. To the question by the Registry Representatives whether Mr Ongwen wanted to have the warrant of arrest and annex read in full, Mr Ongwen agreed to being read an extract of the warrant of Arrest (from paragraph 30 until count Thirty-Three - document ICC-02/04-01/05-10-US-Exp) as such waiving his right to being read the full version. At 19.12 hours, the Registry representatives proceeded with reading the extract of the warrant of arrest. Mr Ongwen agreed that he would read the full version of the warrant of arrest and the annex at a later stage.

7. Subsequently, the formal notification of the full warrant of arrest, both in English and Acholi (with the English version being provided to the Duty Counsel M. Ciss e), and the annex took place (see annexes 4 and 5 to this present document). As Mr Ongwen had indicated that Acholi would be his language of choice as his

understanding of English is limited, he was provided with Acholi interpretation during all his interactions with the Registry.

8. The Registry representatives explained to Mr Ongwen the following steps regarding his transfer. More in particular, it was explained that he would undergo a medical check prior to his transfer to The Hague.

9. The Registry Representatives mentioned to Mr Ongwen that he would have the possibility to fully discuss the warrant of arrest in detail and prepare his defence with the Duty Counsel when in The Hague.

10. The meeting with Mr Ongwen was finalized by reiterating the fact that he was under custody of the Court. Subsequently, Mr Ongwen was transported to a secure location, previously assessed by the Registry, in light of his planned transfer to The Hague and where he would stay until his departure for The Netherlands. At all times, Mr Ongwen was under the custody of the Court and being guarded by the competent staff of the Court.

11. On Saturday morning 08.00 hours, Mr Ongwen was checked by a MINUSCA (UN Mission to the CAR) medical officer and was found fit to fly (see annex 6 to this present document).

12. On Saturday 17 January 2015 at 09.00 hours, the Registry representatives were informed that return would be delayed. Consequently, the Court's staff ensuring the detention informed Mr Ongwen about the situation. During his detention, Mr Ongwen was allowed fresh air two times per day, provided with food, water and clothing and had access to a toilet and washing facilities. He was also able to discuss

at any time with the Registry representatives and an interpreter was made available during this time frame.

13. The Registry representatives met with the International Committee of the Red Cross (ICRC) and, as per the agreement between the Court and the ICRC, informed the Head of Mission in Bangui about the detention of Mr Ongwen under ICC custody and the conditions of his detention. A visit by the ICRC took place in the afternoon of Monday 19 January 2015. The ICRC is the Court's inspecting authority regarding detention matters and is always informed when a new arrest is made by the Court. As per the agreement, full access to the premises and privileged communication took place.

14. The Registry made the necessary arrangements in order to facilitate a visit in accordance with Mr Ongwen's religious belief. Such visit equally took place.

15. In preparation for the return flight, Mr Ongwen was again checked by the MINUSCA Medical Officer on Tuesday 20 January 2015 and was considered fit to fly (see annex 7 to this present document).

16. In order to facilitate the departure of Mr Ongwen from the Central African Republic and subsequent arrival to The Netherlands, the Registry prepared a Travel document for Mr Ongwen (see annex 8 to this present document).

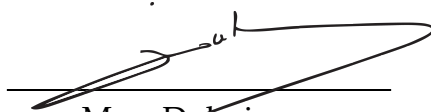
17. At 17.59 hours local time, the Registry delegation left Bangui with Mr. Ongwen and arrived on Wednesday 21 January 2015 at Rotterdam airport at 01.00 hours local time after a direct flight by the Belgian Air Force.

18. Upon arrival, Mr. Ongwen was transported to the ICC Detention Centre (see annex 9 to this present document) where he arrived at 01.55 hours local time on Wednesday 21 January 2015. Upon arrival, Mr. Ongwen was seen by the Medical Officer of the ICC Detention Centre. The transmission of confidential medical information was ensured by the Registry nurse accompanying Mr Ongwen on his travel from Bangui. The admission procedure in conformity with Regulation 186 of the Regulations of the Registry (see annex 10 to this present document) ended at 03.40 hours.

TRANSMITS the following annexes to this present document:

- Annex 1: Procès-Verbal de vérification d'identité
- Annex 2: Procès-Verbal de notification d'un mandat d'arrêt de la Cour pénale internationale
- Annex 3: Procès-Verbal de remise
- Annex 4: Record of Notification (English)
- Annex 5: Record of Notification (Acholi)
- Annex 6: Medical certificate – dated 17/01/2015
- Annex 7: Medical certificate – dated 20/01/2015
- Annex 8: Travel document
- Annex 9: Request for transportation of persons to the ICC detention centre
- Annex 10: Report on the arrival of the detained person in the Host State

SUBMITS the present document and its annexes as confidential *ex parte* only available to the Prosecution and the Defence, as it contains confidential information;



Marc Dubuisson
Director - Division of Court Services
per delegation of
Herman von Hebel, Registrar

Dated this 22 January 2015

At The Hague, The Netherlands