

Cour Pénale Internationale International Criminal Court

Office of the Prosecutor

Our Reference: OTP/20040621-Article 18 Notification

June 21, 2004

Your Excellency,

In accordance with article 18(1) of the Rome Statute, I have the honour to notify you that I have determined that there is a reasonable basis to commence an investigation into crimes allegedly committed in the territory of the Democratic Republic of Congo (DRC) since the entry into force of the Rome Statute on 1 July 2002.

Pursuant to articles 13 (a) and 14 of the Rome Statute, the DRC has referred to my Office the situation of crimes committed in its territory, asking that we investigate in order to determine if one or more persons should be charged with such crimes.

Since 16 July 2003, after receiving several communications from individuals and non-governmental organizations, my Office has been carrying out analysis and seeking additional information on the DRC, with a particular focus given to the Ituri district.

Following the referral, as required under article 53 and Rule 104, my Office has evaluated the information available on issues of jurisdiction, admissibility and the interests of justice with respect to the entire territory of the DRC.

Having carefully evaluated this information in accordance with article 53(1)(a) of the Statute, I have found that there is a reasonable basis to believe that crimes within the ICC jurisdiction have been or are being committed in the DRC. The available information indicates that massacres have been perpetrated against civilian populations since 1 July 2002, resulting in thousands of unlawful killings and showing a potentially widespread pattern of victimization, including but not limited to rape and other sexual violence, torture, child conscription, and forced displacement.

Under the principle of complementarity, cases will be admissible before the ICC where no national proceedings have been conducted, or where such proceedings are conducted but the state concerned is unwilling or unable to carry out the proceedings genuinely. In its letter of referral the DRC made it clear that the particular situation of the country did not allow the competent authorities to investigate and prosecute the crimes committed without the intervention of the ICC. In light of this acknowledgement, as well as an analysis of the available information on the DRC judiciary and national proceedings, I have determined, as required under article 53(1)(b), that the situation referred will involve cases that would be admissible under article 17 of the Statute.

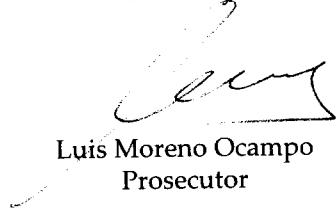
Article 53(1)(c) of the Rome Statute requires me to consider whether, taking into account the nature and gravity of the crimes and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. I have given this very careful analysis and consideration. At this time, there are no substantial reasons to believe that an investigation would not serve the interests of justice.

In accordance with article 18(2) of the Rome Statute, I invite you to inform the Court within one month of receipt of this notification, whether your State is investigating, or has investigated, its nationals or others within its jurisdiction with respect to criminal acts committed in the territory of the DRC which may constitute crimes referred to in article 5 of the Rome Statute and which relate to the information provided in this notification.

As indicated in my public policy paper, my Office will focus its investigative and prosecutorial efforts and resources on those who bear the greatest responsibility for crimes within the jurisdiction of the Court committed in the DRC.

Please accept, your Excellency, the renewed assurances of my highest regard.

Sincerely,



Luis Moreno Ocampo
Prosecutor

TO ALL STATES PARTIES TO THE ROME STATUTE
OF THE INTERNATIONAL CRIMINAL COURT