

**Cour
Pénale
Internationale**

**International
Criminal
Court**

No.: ICC-02/04

Date: 8 July 2005

Original: English

PRE-TRIAL CHAMBER II

Before: Judge Tuiloma Neroni Slade

Judge Mauro Politi

Judge Fatoumata Dembele Diarra

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Public redacted version

WARRANT OF ARREST FOR OKOT ODHIAMBO

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Ms Christine Chung, Senior Trial Lawyer

Mr Eric MacDonald, Trial Lawyer

1. **PRE-TRIAL CHAMBER II** (the “Chamber”) of the International Criminal Court (the “Court”), sitting as the full Chamber pursuant to its decision on the 18th day of May 2005, to which, on the 5th day of July 2004, the Presidency assigned the situation in Uganda pursuant to regulation 46 of the Regulations of the Court (the “Regulations”);
2. **HAVING RECEIVED** the “Prosecutor’s application for Warrants of Arrest under Article 58” dated the 6th day of May 2005, as amended and supplemented by the Prosecutor on the 13th day of May 2005 and on the 18th day of May 2005 (the “Prosecutor’s application”), and having considered it on the basis of the amended application of the 18th day of May 2005;
3. **NOTING** the Prosecutor’s request to be authorised to exceed the 50-page limit for his application for the issuance of warrants of arrest and the Chamber’s decision on the 18th day of May 2005 granting the request;
4. **NOTING** that the Prosecutor’s application seeks a warrant of arrest for **OKOT ODHIAMBO** for the crimes listed under Counts 10 to 19, as set out in the Prosecutor’s application, as well as warrants of arrest for four other persons named in the Prosecutor’s application;

The Lord’s Resistance Army (the “LRA”)

5. **CONSIDERING** the general allegations presented in the Prosecutor’s application that the LRA is an armed group carrying out an insurgency against the Government of Uganda and the Ugandan Army (also known as

the Uganda People's Defence Force ("UPDF")) and local defence units ("LDUs") since at least 1987; that over this time, including the period from the 1st day of July 2002, the LRA has been directing attacks against both the UPDF and LDUs and against civilian populations; that, in pursuing its goals, the LRA has engaged in a cycle of violence and established a pattern of "brutalization of civilians" by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements; that abducted civilians, including children, are said to have been forcibly "recruited" as fighters, porters and sex slaves to serve the LRA and to contribute to attacks against the Ugandan army and civilian communities;

6. **CONSIDERING** that the existence and acts of the LRA, as well as their impact on Uganda's armed forces and civilian communities, have been reported by the Government of Uganda and its agencies and by several independent sources, including the United Nations, foreign governmental agencies, non-governmental organisations and world media;
7. **CONSIDERING** the allegations that the LRA was founded and is led by Joseph Kony, the Chairman and Commander-in-Chief, and that the LRA is organised in a military-type hierarchy and operates as an army;
8. **CONSIDERING** the allegations that LRA forces are divided into four brigades named Stockree, Sinia, Trinkle and Gilva, and that since July 2002 the LRA's hierarchy of posts under Joseph Kony's overall leadership has included Vincent Otti, the Vice-Chairman and Second-in-Command; the Army Commander; three senior posts of Deputy Army Commander, Brigade

General and Division Commander; and four Commanders of equal rank, each of whom leads one of the four LRA brigades;

9. **CONSIDERING** the specific allegations that Joseph Kony, Vincent Oti and other senior LRA commanders, including **OKOT ODHIAMBO**, are the key members of “Control Altar”, the section representing the core LRA leadership responsible for devising and implementing LRA strategy, including standing orders to attack and brutalise civilian populations; that, during the period most relevant to the Prosecutor’s application, **OKOT ODHIAMBO** served successively as Brigade Commander of Trinkle and Stockree Brigades and as Deputy Army Commander; that **OKOT ODHIAMBO** is described by former LRA commanders and members as a “ruthless killer”, as “the one who killed the most”, and as “a ‘bitter’ man who will kill anyone”;

10. **HAVING EXAMINED** the Prosecutor’s submission that, in his capacity as Brigade Commander of Stockree Brigade, together with other persons whose arrests are sought by the Prosecutor, **OKOT ODHIAMBO** ordered the commission of several crimes within the jurisdiction of the Court in REDACTED 2004;

11. **CONSIDERING** that sources indicated by the Prosecutor as confirming **OKOT ODHIAMBO**’s role within the LRA’s leadership include statements from former LRA commanders, victim or witness accounts, radio broadcast recordings and taped short-wave radio communications with other LRA commanders intercepted by Ugandan investigative authorities;

12. **CONSIDERING** the Prosecutor's allegations that, in or around the middle of the year 2002, Joseph Kony ordered LRA forces to begin a campaign of attacks against civilians in the regions of REDACTED and REDACTED; that, in REDACTED 2003, Joseph Kony ordered LRA fighters, known also as rebels, to move into the REDACTED region, attack the UPDF forces and civilian settlements and abduct civilians for the purpose of recruitment to the ranks of the LRA (the "REDACTED campaign"); that, at some time REDACTED 2003, Joseph Kony issued broad orders to target and kill civilian populations, including those living in camps for internally displaced persons ("IDP"); that, during the REDACTED campaign and other LRA operations, there existed standing orders, given by Joseph Kony, to loot and to abduct civilians; that, in response to Joseph Kony's orders, senior LRA commanders and all of the brigade commanders, including **OKOT ODHIAMBO**, moved into the REDACTED and REDACTED regions to conduct LRA operations while continuing to advance into the REDACTED region; and that **OKOT ODHIAMBO**'s direct involvement with the objectives and strategies of the campaign as a whole is shown by recordings of intercepted radio communications, accounts from former members of the LRA and other victim accounts;

13. **NOTING** that the Prosecutor's application charges **OKOT ODHIAMBO** with criminal responsibility for two attacks having occurred in REDACTED 2004 mentioned hereafter forming part of the REDACTED campaign;

14. **NOTING** that the Prosecutor charges **OKOT ODHIAMBO** with crimes against humanity and war crimes, as specified in Counts 10 to 19 of his

application, in connection with the attacks on the REDACTED IDP Camp and the REDACTED IDP Camp;

Attack on REDACTED IDP Camp

15. **NOTING** that the Prosecutor alleges that, on REDACTED 2004, the residents of the REDACTED IDP Camp in the REDACTED District were attacked by a group REDACTED, who REDACTED “spread through the camp ... hacking and shooting civilians, burning civilians’ homes and looting”, REDACTED; that, according to Ugandan authorities, the attack resulted in the death of REDACTED civilians, the wounding of REDACTED civilians as well as in the abduction of REDACTED civilians; that it is reported that REDACTED were abducted and that weapons and other items REDACTED were taken from the camp by LRA fighters during the attack;

16. **NOTING** that the evidence submitted, including excerpts of intercepted radio communications, suggests that **OKOT ODHIAMBO** was the leader who ordered and commanded the forces that attacked the REDACTED IDP Camp; that **OKOT ODHIAMBO** immediately reported the attack on the REDACTED IDP Camp to his superior, Joseph Kony, REDACTED;

Attack on REDACTED IDP Camp

17. **NOTING** that the Prosecutor alleges that, on REDACTED 2004, an armed group attacked the REDACTED IDP Camp REDACTED in the REDACTED

District, REDACTED and started shooting at and hacking civilians; that the attack resulted in REDACTED houses being burnt REDACTED; that sources including Ugandan authorities and local hospital records indicated that the attack resulted in the death of REDACTED civilians, including children and women, and the wounding of REDACTED civilians;

18. **NOTING** that the evidence submitted, including accounts from REDACTED and intercepted radio communications, suggests that **OKOT ODHIAMBO** commanded the LRA operation which attacked the REDACTED IDP Camp; that, according to intercepted radio communications, following the attack **OKOT ODHIAMBO** reported the magnitude of the killings to Vincent Otti, who in turn communicated the event and its consequences to Joseph Kony; that intercepted radio communications further suggest that, REDACTED after the attack on the REDACTED IDP Camp, Joseph Kony promoted **OKOT ODHIAMBO**;

19. **NOTING** article 58 and article 19 of the Statute of the Court (the “Statute”);

20. **NOTING** the letter of referral dated the 16th day of December 2003 from the Attorney General of the Republic of Uganda, appended as Exhibit A to the Prosecutor’s application, by which the “situation concerning the Lord’s Resistance Army” in northern and western Uganda was submitted to the Court;

21. **NOTING** the Prosecutor’s conclusion that “the scope of the referral encompassed all crimes committed in Northern Uganda in the context of the

ongoing conflict involving the LRA” and that the Prosecutor notified the Government of Uganda of his conclusion as referred to in paragraph 1 of the Prosecutor’s application;

22. **NOTING** the “Declaration on Temporal Jurisdiction”, dated the 27th day of February 2004, appended as Exhibit B to the Prosecutor’s application, whereby the Republic of Uganda accepted the exercise of the Court’s jurisdiction for crimes committed following the entry into force of the Statute on the 1st day of July 2002;
23. **NOTING** the “Letter on Jurisdiction” dated the 28th day of May 2004 from the Solicitor-General of the Republic Uganda to the Prosecutor, appended as Exhibit C to the Prosecutor’s application;
24. **NOTING** that all of the crimes alleged against **OKOT ODHIAMBO** fall within the provisions of articles 5, 7 and 8 of the Statute and that such crimes are alleged to have taken place after the 1st day of July 2002 and within the context of the situation in Uganda as referred to the Court;
25. **NOTING** the Prosecutor’s determination that the requirements of article 53, paragraph 1, of the Statute were satisfied;
26. **NOTING** that the Prosecutor affirms in paragraph 3 of the application that letters of notification were distributed to “all States parties under article 18, paragraph 1, of the Statute, as well as to other States that would normally

exercise jurisdiction”; and that the Prosecutor had not received from any State information pursuant to article 18, paragraph 2, of the Statute;

27. **NOTING** the statements in the “Letter of Jurisdiction” dated the 28th day of May 2004, that “the Government of Uganda has been unable to arrest ... persons who may bear the greatest responsibility” for the crimes within the referred situation; that “the ICC is the most appropriate and effective forum for the investigation and prosecution of those bearing the greatest responsibility” for those crimes; and that the Government of Uganda “has not conducted and does not intend to conduct national proceedings in relation to the persons most responsible”;

28. **BEING SATISFIED** that, on the basis of the application, the evidence and other information submitted by the Prosecutor, and without prejudice to subsequent determination, the case against **OKOT ODHIAMBO** falls within the jurisdiction of the Court and appears to be admissible;

29. **NOTING** articles 5, 7 and 8 of the Statute setting out crimes against humanity and war crimes; and noting also the Elements of Crimes;

30. **NOTING** the evidence submitted by the Prosecutor in support of the existence of the contextual elements of the alleged crimes;

31. **NOTING** that the Prosecutor relies on several categories of evidence to support the allegations made in his application;

32. **BEING SATISFIED**, on the basis of the application, the evidence and other information submitted by the Prosecutor, that there are reasonable grounds to believe that **OKOT ODHIAMBO**, together with other persons whose arrests are sought by the Prosecutor, ordered the commission of crimes within the jurisdiction of the Court, namely, crimes against humanity and war crimes, particulars of which are set out in the following counts as numbered in the Prosecutor's application:

Count Ten

(Murders at REDACTED IDP Camp Constituting Crimes Against Humanity)

On REDACTED 2004, ordering the commission of crimes against humanity which in fact occurred, namely, the unlawful killings of REDACTED civilian residents of REDACTED IDP Camp, in REDACTED District, Uganda (articles 7(1)(a) and 25(3)(b) of the Statute);

Count Eleven

(Enslavement at REDACTED IDP Camp Constituting Crimes Against Humanity)

On REDACTED 2004, ordering the commission of crimes against humanity which in fact occurred, namely, the enslavement of REDACTED civilian residents of REDACTED IDP Camp, in REDACTED District, Uganda (articles 7(1)(c) and 25(3)(b) of the Statute);

Count Twelve

(Murder at REDACTED IDP Camp Constituting War Crimes)

On REDACTED 2004, ordering the commission of war crimes which in fact occurred, namely, the unlawful killings of REDACTED civilian residents of REDACTED IDP Camp, in REDACTED District, Uganda (articles 8(2)(c)(i) and 25(3)(b) of the Statute);

Count Thirteen

(Enlisting of Children at REDACTED IDP Camp Constituting War Crimes)

On REDACTED 2004, ordering the commission of war crimes which in fact occurred, namely, the enlisting, through abduction, of residents of REDACTED IDP Camp REDACTED, in REDACTED District, Uganda (articles 8(2)(e)(vii) and 25(3)(b) of the Statute);

Count Fourteen

(Attack Against the Civilian Population at REDACTED IDP Camp
Constituting War Crime)

On REDACTED 2004, ordering the commission of a war crime which in fact occurred, namely, the intentional directing of attacks against the civilian population of REDACTED IDP Camp, in REDACTED District, Uganda, and against individual civilians not taking direct part in hostilities (articles 8(2)(e)(i) and 25(3)(b) of the Statute);

Count Fifteen

(Pillaging at REDACTED IDP Camp Constituting War Crimes)

On REDACTED 2004, ordering the commission of war crimes which in fact occurred, namely, the pillaging of REDACTED IDP Camp, in REDACTED District, Uganda (articles 8(2)(e)(v) and 25(3)(b) of the Statute);

Count Sixteen

(Murder at REDACTED IDP Camp Constituting Crimes Against Humanity)

On REDACTED 2004, ordering the commission of crimes against humanity which in fact occurred, namely, the unlawful killings of REDACTED civilian residents of REDACTED IDP Camp, in REDACTED District, Uganda (articles 7(1)(a) and 25(3)(b) of the Statute);

Count Seventeen

(Murder at REDACTED IDP Camp Constituting War Crimes)

On REDACTED 2004, ordering the commission of war crimes which in fact occurred, namely, the unlawful killings of REDACTED civilian residents of REDACTED IDP Camp, in REDACTED District, Uganda (articles 8(2)(c)(i) and 25(3)(b) of the Statute);

Count Eighteen

(Attack Against the Civilian Population at REDACTED IDP Camp
Constituting War Crime)

On REDACTED 2004, ordering the commission of a war crime which in fact occurred, namely, the intentional directing of attacks against the civilian population of REDACTED IDP Camp, in REDACTED District, Uganda, and against individual civilians not taking direct part in hostilities (articles 8(2)(e)(i) and 25(3)(b) of the Statute);

Count Nineteen

(Pillaging at REDACTED IDP Camp Constituting War Crimes)

On REDACTED 2004, ordering the commission of a war crime which in fact occurred, namely, the pillaging of REDACTED IDP Camp, in REDACTED District, Uganda (articles 8(2)(e)(v) and 25(3)(b) of the Statute);

33. **NOTING** the reasons advanced by the Prosecutor as to the necessity for arrest, namely, to ensure **OKOT ODHIAMBO**'s appearance at trial; to ensure that he does not obstruct or endanger the investigation, either individually or on a collective basis; and to prevent him from continuing to commit crimes within the jurisdiction of the Court;
34. **BEING SATISFIED** that the issuance of a warrant of arrest appears necessary based on the facts and circumstances referred to in the Prosecutor's application, namely that the LRA has been in existence for the past 18 years; and that the LRA commanders are allegedly inclined to launch retaliatory strikes, thus creating a risk for victims and witnesses who have spoken with or provided evidence to the Office of the Prosecutor;
35. **NOTING** the statements made by the Prosecutor at the hearings on the 16th day of June 2005 and the 21st day of June 2005 to the effect that attacks by the

LRA are still occurring and that there is therefore a likelihood that failure to arrest **OKOT ODHIAMBO** will result in the continuation of crimes of the kind described in the Prosecutor's application;

36. **NOTING** the Prosecutor's request that the application and all proceedings relating thereto be treated as under seal and be kept under seal;

FOR THESE REASONS,

37. **PRE-TRIAL CHAMBER II GRANTS** the Prosecutor's application for a warrant of arrest for **OKOT ODHIAMBO** pursuant to article 58 of the Statute and **HEREBY ISSUES:**

38. **A WARRANT OF ARREST** (the "Warrant") for the **SEARCH, ARREST, DETENTION AND SURRENDER** to the Court of **OKOT ODHIAMBO**, a male whose photograph is annexed; who is believed to have served as Brigade Commander of Trinkle Brigade, Brigade Commander of Stockree Brigade, and as Deputy Army Commander of the LRA and to be known as "Two Victor" by his radio call sign; and who is believed to be a national of Uganda;

39. **ORDERS** that the said **OKOT ODHIAMBO** be advised at the time of his arrest, and in a language he fully understands and speaks, of his rights as set forth in the following provisions of the Statute and the Rules of Procedure and Evidence, the texts of which are annexed to the Warrant:

- article 19, paragraph 2 (challenges to the jurisdiction of the Court or the admissibility of a case);
- article 55, paragraph 2 (rights of persons during an investigation);
- article 57 (functions and powers of the Pre-Trial Chamber);
- article 59 (arrest proceedings in the custodial State);
- article 60 (initial proceedings before the Court);
- article 61 (confirmation of the charges before trial);
- article 67 (rights of the accused);
- rule 21 (assignment of legal assistance);
- rule 112 (recording of questioning in particular cases);
- rule 117 (detention in the custodial State);
- rule 118 (pre-trial detention at the seat of the Court);
- rule 119 (conditional release);
- rule 120 (instruments of restraint);
- rule 121 (proceedings before the confirmation hearing);
- rule 122 (proceedings at the confirmation hearing in the presence of the person charged);
- rule 123 (measures to ensure the presence of the person concerned at the confirmation hearing);
- rule 124 (waiver of the right to be present at the confirmation hearing);
- rule 187 (translation of documents accompanying request for surrender);

40. **ORDERS** that the Warrant shall remain in effect until further order by the Chamber;
41. **AUTHORISES** the Warrant to be made available and disclosed to persons or entities designated by the authorities of the State requested in the Request for Arrest and Surrender and only for the purposes of the execution of the Warrant;
42. **ORDERS** that the Warrant, in all other respects, be kept under seal until further order by the Chamber;
43. Done in both English and French, the English version being authoritative.

signed

Judge Tuiloma Neroni Slade
Presiding Judge

signed

Judge Mauro Politi

signed

Judge Fatoumata Dembele Diarra

Dated this 8th day of July 2005

At The Hague, The Netherlands

Seal of the Court