

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

No.: ICC-01/04-02/07

Date: 6 July 2007

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. MATHIEU NGUDJOLO CHUI***

Under seal

WARRANT OF ARREST FOR MATHIEU NGUDJOLO CHUI

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Mr Éric MacDonald, Trial Lawyer

PRE-TRIAL CHAMBER I of the International Criminal Court ("the Court");

NOTING the decision assigning the situation in the Democratic Republic of the Congo ("the DRC") to the Chamber, rendered by the Presidency on 5 July 2004;¹

NOTING the "Notification to Pre-Trial Chamber I and Request for Extension of Page Limit", filed by the Prosecution on 14 June 2007;²

NOTING the Prosecution's Application for a warrant of arrest for Mathieu Ngudjolo Chui ("Mathieu Ngudjolo"), filed in two parts on 25 June 2007 ("the Prosecution Application");³

NOTING the evidence and other information submitted by the Prosecution;⁴

NOTING the *Decision concerning Supporting Materials in relation with the Prosecution's Application*, rendered on 26 June 2007;⁵

NOTING the Prosecution's response to the Decision concerning supporting materials in relation with the Prosecution's Application,⁶ filed on 27 June 2007;

NOTING articles 19(1) and 58(1) of the *Rome Statute* ("the Statute");

¹ ICC-01/04-1.

² ICC-01/4-338-US-Exp.

³ ICC-01/04-348-US-Exp and ICC-01/04-350-US-Exp.

⁴ ICC-01/04-349-US-Exp and Anx1-Anx 10 and AnxA-Anx H.

⁵ ICC-01/04-352-US-Exp.

⁶ ICC-01/04-354-US-Exp and Anx1-Anx6 and Anx10-Anx14.

CONSIDERING that the analysis of the evidence and other information submitted by the Prosecution will be set out in a decision to be filed in a separate document;

CONSIDERING that, on the basis of the evidence and information submitted by the Prosecution and without prejudice to the filing of any challenge to the admissibility of the case under articles 19(2)(a) and (b) of the Statute and without prejudice to any subsequent decision in this regard, the case against Mathieu Ngudjolo falls within the jurisdiction of the Court and is admissible;

CONSIDERING that there are reasonable grounds to believe that from July 2002 until the end of 2003, there was a protracted armed conflict on the territory of Ituri involving armed groups based thereon and having a hierarchical organisation and the ability to plan and carry out sustained military operations, including the *Front des nationalistes et intégrationnistes* [National Integrationist Front] ("the FNI", the *Force de résistance patriotique en Ituri* [Patriotic Resistance Force in Ituri] ("the FRPI"), the *Union des patriotes Congolais* [Union of Congolese Patriots] ("the UPC"/the *Forces patriotiques pour la libération du Congo* [Patriotic Forces for the Liberation of Congo] ("the FPLC") and the *Parti pour l'unité et la sauvegarde de l'intégrité du Congo* [Party for Unity and Safeguarding of the Integrity of Congo] ("the PUSIC");

CONSIDERING that there are reasonable grounds to believe that the Uganda People's Defence Force ("UPDF") allegedly also participated in the above-mentioned armed conflict;

CONSIDERING, therefore, that there are reasonable grounds to believe that a protracted armed conflict took place during the said period and that it may be characterised as being of a non-international, or alternatively, as being of an international character;

CONSIDERING that there are reasonable grounds to believe that in the context of this armed conflict, the FNI and the FRPI, acting with a common purpose, carried out an attack on the village of Bogoro which started on or around 24 February 2003;

CONSIDERING that there are reasonable grounds to believe that the attack directed against the village of Bogoro was indiscriminate, and that during, and in the aftermath of, the attack, members of the FNI and FRPI committed several criminal acts against civilians primarily of Hema ethnicity, namely i) the murder of about 200 civilians; ii) causing serious bodily harm to civilians; iii) arresting, threatening with weapons and imprisoning civilians in a room filled with corpses; iv) pillaging and v) the sexual enslavement of several women and girls;

CONSIDERING also that there are reasonable grounds to believe that members of the FNI and FRPI used children under the age of fifteen years to participate actively in this attack;

CONSIDERING, therefore, that there are reasonable grounds to believe that, during, and in the aftermath of, the attack on the village of Bogoro, war crimes within the jurisdiction of the Court pursuant to articles 8(2)(a)(i), 8(2)(a)(ii), 8(2)(b)(i), 8(2)(b)(xvi), 8(2)(b)(xxii), 8(2)(b)(xxvi), 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(v), 8(2)(e)(vi) and 8(2)(e)(vii) of the Statute, as described in the Prosecution Application, were committed;

CONSIDERING that there are reasonable grounds to believe that between January 2003 and at least March 2003, the FNI and FRPI carried out an attack directed against the civilian population of certain parts of the territory of Ituri, primarily of Hema

ethnicity; that the attack was of a systematic or widespread nature; and that during such a systematic or widespread attack, on or around 24 February 2003, during, and in the aftermath of, the attack on the village of Bogoro, the following crimes were committed: the murder of about 200 civilians, causing serious bodily harm to civilians and the sexual enslavement of several women and girls;

CONSIDERING, therefore, that there are reasonable grounds to believe that during the attack on the village of Bogoro, crimes against humanity within the jurisdiction of the Court pursuant to articles 7(1)(a), 7(1)(g) and 7(1)(k) of the Statute, as described in the Prosecution Application, were committed;

CONSIDERING that there are reasonable grounds to believe that Mathieu Ngudjolo was the highest ranking FNI commander;

CONSIDERING that there are reasonable grounds to believe that there was a common plan between Mathieu Ngudjolo and other senior FNI and FRPI military commanders to carry out an indiscriminate attack on the village of Bogoro on or around 24 February 2003; that criminal acts committed during, and in the aftermath of, the attack, namely i) the murder of about 200 civilians, ii) causing serious bodily harm to civilians, iii) arresting, threatening with weapons and imprisoning civilians in a room filled with corpses, iv) pillaging, v) the sexual enslavement of several women and girls and vi) the active participation of children under the age of fifteen years in hostilities, were part of the common plan or, were, at the very least, a probable and accepted consequence of the implementation of the said common plan;

CONSIDERING that there are reasonable grounds to believe that, as the highest ranking FNI commander, and by designing the common plan and ordering his

subordinates to execute it, Mathieu Ngudjolo's contribution was essential to its implementation;

CONSIDERING that for the foregoing reasons, there are reasonable grounds to believe that Mathieu Ngudjolo is criminally responsible under article 25(3)(a) or, in the alternative, under article 25(3)(b) of the Statute, for:

- i) murder as a crime against humanity, punishable under article 7(1)(a) of the Statute;
- ii) wilful killing as a war crime, punishable under article 8(2)(a)(i) or article 8(2)(c)(i) of the Statute;
- iii) inhumane acts as a crime against humanity, punishable under article 7(1)(k) of the Statute;
- iv) inhuman treatment as a war crime, punishable under article 8(2)(a)(ii) or cruel treatment as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- v) the war crime of using children under the age of fifteen years to participate actively in hostilities, punishable under article 8(2)(b)(xxvi) or article 8(2)(e)(vii) of the Statute;
- vi) sexual slavery as a crime against humanity, punishable under article 7(1)(g) of the Statute;
- vii) sexual slavery as a war crime, punishable under article 8(2)(b)(xxii) or article 8(2)(e)(vi) of the Statute;
- viii) the war crime of intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities, punishable under article 8(2)(b)(i) or article 8(2)(e)(i) of the Statute;
- ix) pillaging a town or place, even when taken by assault as a war crime, punishable under article 8(2)(b)(xvi) or article 8(2)(e)(v) of the Statute;

CONSIDERING that there are reasonable grounds to believe that the arrest of Mathieu Ngudjolo appears necessary at this stage within the meaning of articles 58(1)(b)(i) and (ii) of the Statute to ensure his appearance before the Court and that he does not obstruct or endanger the investigation;

FOR THESE REASONS,

HEREBY ISSUES

A WARRANT OF ARREST for Mathieu NGUDJOLO CHUI, whose photograph is attached, who is believed to be a national of the Democratic Republic of the Congo, born on 8 October 1970 in Bunia, Ituri District, whose place of origin is the village of Likoni, in the *groupement* of Ezekere, within Walendu Tatsi *collectivité*, in Djugu territory, who is believed to be of Lendu ethnicity, married to Semaka Lemi and father of two children, son of Mawa Likoni and Lasi, and believed to be a former nurse in Bunia, alleged former leader of the FNI, currently a Colonel in the National Army of the Government of the DRC (*Forces armées de la RDC* [Armed Forces of the Democratic Republic of the Congo], "FARDC") since October 2006, currently stationed in Bunia and adviser to the Chief of the Operational Sector of the FARDC, and whose name is also written Mathieu Cui Ngudjolo, Cui Ngudjolo.

Done in both English and French, the French version being authoritative.

[*signed*]

Judge Sylvia Steiner

Judge Akua Kuenyehia and Judge Anita Ušacka are unavailable to sign the decision because they are absent from the Seat of the Court on the day of signature.

Dated this Friday 6 July 2007

No. ICC-01/04-02/07

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6 July 2007

Official Court Translation

At The Hague, The Netherlands