

Indictment and bringing to trial of Joseph Kony at the International Criminal Court

European Parliament resolution of 21 October 2008 on the indictment and bringing to trial of Joseph Kony at the International Criminal Court

The European Parliament,

- having regard to the Rome Statute of the International Criminal Court (ICC), in particular Article 86 thereof, and the entry into force of the Statute on 1 July 2002,
- having regard to the ratification of the Rome Statute by Uganda on 14 June 2002,
- having regard to the referral in 2003 by Ugandan President Yoweri Museveni to the ICC of the situation concerning the Lord's Resistance Army (LRA), which was the first referral by a State Party to the ICC since its establishment,
- having regard to the ICC Prosecutor's decision of 29 July 2004 to open an investigation into the situation concerning Northern Uganda,
- having regard to the warrant of arrest for Joseph Kony issued by the ICC on 8 July 2005, as amended on 27 September 2005 (No ICC-02/04-01/05-53),
- having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (ACP), of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000¹, as amended by the Agreement amending the Partnership Agreement, signed in Luxembourg on 25 June 2005² ('the Cotonou Agreement'), and in particular Article 8 thereof on political dialogue and Article 11(6) on promoting the strengthening of peace and international justice,
- having regard to Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes³ and its position of 9 April 2002 on the European network of contact points⁴,
- having regard to Council Decision 2003/335/JHA of 8 May 2003 on the investigation and prosecution of genocide, crimes against humanity and war crimes⁵ and its position of 17 December 2002 on the prosecution of war crimes and crimes against humanity⁶,
- having regard to Council Common Position 2003/444/CFSP of 16 June 2003 on the International Criminal Court⁷ and the Council Action Plan to follow-up on that Common Position,
- having regard to the Agreement between the ICC and the EU on Cooperation and

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 209, 11.8.2005, p. 27.

³ OJ L 167, 26.06.2002, p. 1.

⁴ OJ C 127 E, 29.5.2003, p. 130.

⁵ OJ L 118, 14.05.2003, p. 12.

⁶ OJ C 31 E, 5.2.2004, p. 83.

⁷ OJ L 150, 18.6.2003, p. 67.

- Assistance signed on 10 April 2006, which entered into force on 1 May 2006¹,
- having regard to the additional report of 23 June 2008 by the UN Secretary-General on children and armed conflict in Uganda,
 - having regard to the EU human rights guidelines on children in armed conflict of 2003,
 - having regard to its previous resolutions, in particular those of 22 May 2008 on Sudan and the ICC², of 3 July 2003 on human rights violations in northern Uganda³, and of 6 July 2000 on the abduction of children by the Lord's Resistance Army (LRA)⁴,
 - having regard to the decision of 28 August 2008 by the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury imposing new sanctions on Joseph Kony, by adding him to its 'black list', the Specially Designated Nationals (SDN) List,
 - having regard to the exchange of views on the ICC at the European Parliament's Committee on Development meeting of 15 September 2008,
 - having regard to Rule 91 and Rule 90(4) of its Rules of Procedure,
- A. whereas in July 2005 the ICC issued a warrant of arrest for Joseph Kony, the Chairman and Commander-in-Chief of the LRA, under 33 counts of alleged crimes against humanity and war crimes, which was amended in September 2005; whereas warrants of arrest have also been issued for the other top LRA commanders, including Vincent Otti, Okot Odhiambo and Domic Ongwen,
- B. whereas the 33 criminal counts against Joseph Kony include 12 counts of war crimes and crimes against humanity, including murder, rape, enslavement, sexual enslavement, and inhumane acts of inflicting serious bodily injuries and suffering, and 21 counts of war crimes, including murder, cruel treatment of civilians, intentionally directing an attack against a civilian population, pillaging, inducing rape and forced enlistment of children,
- C. whereas the LRA has been fighting in the region since 1986, ostensibly against the Government of Uganda,
- D. whereas an armed rebellion has been raging in northern Uganda since 1986, currently in the name of the LRA,
- E. whereas in August 2006 the Government of Uganda and the LRA signed a Cessation of Hostilities Agreement,
- F. whereas at the height of the violence in northern Uganda in 2005, some 1,6 million persons were displaced and living in internally displaced camps, and tens of thousands of children had to sleep in urban centres every night for protection; whereas although since 2006 half of the internally displaced persons (IDPs) have been able to return to their homes or close to their homes, the situation remains critical for many IDPs who are reluctant to go back in the absence of a Final Peace Agreement,
- G. whereas the disastrous consequences of this conflict, which has resulted in the abduction of more than 20 000 children and caused immense human suffering, particularly among civilians, as well as gross human rights violations, massive displacement of populations and a breakdown of social and economic structures, are a cause for deep concern; whereas the

¹ OJ L 115, 28.4.2006, p. 50.

² Text adopted, P6_TA(2008)0238.

³ OJ C 74 E, 24.3.2004, p. 879.

⁴ OJ C 121, 24.4.2001, p. 401.

abduction of children and their use as sex slaves or combatants is a war crime and crime against humanity,

- H. whereas in 2008 alone the LRA has allegedly carried out between 200 and 300 abductions in the Central African Republic (CAR), Southern Sudan and the Democratic Republic of Congo (DRC), thus inflicting the same violence on a new generation of victims,
- I. whereas in July 2008 the LRA attacked the Sudan Liberation Army at Nabanga and killed about 20 of its soldiers,
- J. whereas Joseph Kony has repeatedly failed to appear in Juba and has until now refused to sign the Final Peace Agreement 'until the ICC warrants of arrest and some other issues within the Agreement are resolved by the Joint Liaison Group'; whereas the Final Peace Agreement was negotiated by the Special Envoy of the UN Secretary-General for LRA-affected areas, the former President of Mozambique, Joaquim Chissano,
- K. whereas Joseph Kony used the respite during the peace process to regroup and reorganise his LRA forces in the DRC,
- L. whereas, owing to the inability of the States Parties to arrest Kony and the other LRA commanders, the LRA is currently expanding its forces through abductions,
- M. whereas, in September 2008, according to the United Nations Children's Fund (UNICEF), the LRA allegedly abducted 90 Congolese schoolchildren from the towns of Kiliwa and Duru, in the DRC, and attacked many other areas, causing massive displacements in the area,
- N. whereas the ICC plays a crucial role in preventing and curbing the perpetration of the serious crimes falling within its jurisdiction and is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security,
- O. whereas the jurisdiction of the ICC covers the most serious crimes of concern to the international community and in particular genocide, crimes against humanity and war crimes committed after 1 July 2002,
- P. whereas under the Rome Statute, States Parties have committed themselves to prosecuting such crimes within their national jurisdictions and supporting ICC intervention when national states fail to fulfil their duties,
- Q. whereas all EU Member States except the Czech Republic have ratified the Rome Statute,
- R. whereas according to the above-mentioned cooperation agreement concluded between the EU and the ICC, inter alia, in order to facilitate the obligation of cooperation and assistance, the Parties agreed to the establishment of appropriate regular contacts between the ICC and the EU Focal Point for the Court,
- S. whereas the EU and its Member States should make every effort to ensure that the greatest possible number of states take part in the ICC, bearing this objective in mind during negotiations (both bilateral and multilateral) and in political dialogue with third countries and regional organisations,
- T. whereas the ICC should be mainstreamed in EU external relations, and the ratification and implementation of the Rome Statute should be brought up in human rights and political dialogues (notably at summits and other high-level meetings) with third countries, including in the context of development cooperation, such as in the framework of the Cotonou

Agreement,

1. Calls on the Government of Uganda and the governments of the neighbouring countries, in particular the DRC, to cooperate fully with the ICC in its investigations and prosecutions; calls, in particular, for cooperation in arresting and surrendering Joseph Kony and other persons charged by the ICC, without delay;
2. Deeply deplores the halting of efforts to promote the arrest of Joseph Kony and other persons charged by the ICC; reminds the Government of Uganda that as a party to the Rome Statute of the ICC it is under a duty to cooperate fully with the ICC;
3. Notes that the Rome Statute provides that, once persons have been surrendered to the ICC, the Government of Uganda may then apply to have the cases returned to Ugandan courts, provided the ICC concludes that Ugandan courts are able and willing to genuinely investigate and prosecute the LRA suspects named in the warrants of arrest;
4. Urges the Ugandan Government to refrain from concluding any agreements with the LRA that would circumvent international law;
5. Urges the Member States of the EU, the African Union (AU) and particularly Uganda's neighbouring countries to address the implementation of the warrants of arrest in a consistent way;
6. Demands the unconditional and immediate release of all persons abducted by the LRA, particularly children, who risk ending up as sex slaves or being forced to fight for the LRA;
7. Calls on the international community to carry out investigations into recent alleged LRA abuses in the CAR, the DRC and Southern Sudan, and reported unpublicised UN inquiries into abuses in the CAR, and to disclose the findings thereof;
8. Calls on the governments in the region, the UN Mission in the Democratic Republic of Congo (MONUC) and other international observer governments to the peace talks to track and make public the LRA's movements through intensified monitoring of regional borders and to monitor and interdict the flow of weapons and other supplies to the LRA; calls for the development of effective plans to execute the ICC warrants of arrest while minimising the risk to civilian life and without the use of excessive force, including by using MONUC;
9. Calls on EU Member States, especially those which have been involved in Uganda and the Juba peace process, to coordinate with regional governments and the UN secretariat and peacekeeping forces with a view to the execution of the ICC warrants of arrest for LRA leaders;
10. Draws attention to the fact that justice is a common goal to be shared between the EU and the AU;
11. Recalls that, under the Rome Statute, States Parties have committed themselves to put an end to impunity for the most serious crimes of concern to the international community and to contribute to the prevention of such crimes; strongly believes that the ICC and the ad hoc tribunals contribute to the process of reconciliation and peace;
12. Is worried about the absence of clear efforts to avoid diversion of international aid to the LRA, thus allowing Joseph Kony to rearm; urges the cutting of LRA supply networks; calls on the Government of Sudan to stop providing financial and military support to the LRA;
13. Calls on the EU and international donors to support the disarmament, demobilisation and reintegration of former LRA combatants, the return of IDPs and reparation for victims;
14. Welcomes the close and regular contacts between ICC senior officials and the EU; notes the

strong EU support for participation in and implementation of the Rome Statute; stresses that EU leadership is essential for the enforcement of the ICC mandate;

15. Strongly believes that, in the long term, the ICC contributes to the prevention of new atrocities; points out that the failure to arrest Joseph Kony has resulted in the continuation of atrocities and human rights abuses; stresses that peace and reconciliation cannot be achieved without justice for victims;
16. Recommends that the ACP-EU Joint Parliamentary Assembly follow closely the situation in northern Uganda and human rights violations by the LRA;
17. Instructs its President to forward this resolution to the Council, the Commission, the EU Special Representative for the Great Lakes Region, the EU Special Representative to the African Union, the Government of Uganda, the governments of the EU Member States and of the members of the UN Security Council, the institutions of the African Union and the ICC Prosecutor.