

**Cour  
Pénale  
Internationale**

No.: ICC-01/04

**International  
Criminal  
Court**

Date: 28 November  
2005

Original: English

**PRE-TRIAL CHAMBER I**

**Before:** Judge Claude Jorda, Presiding Judge  
Judge Akua Kuenyehia  
Judge Sylvia Steiner

**Registrar:** Mr Bruno Cathala

**SITUATION IN DEMOCRATIC REPUBLIC OF CONGO**

**Public Redacted Version**

**Decision as to the content of the NFI Report**

**The Office of the Prosecutor**

Mr Luis Moreno-Ocampo

Mrs Fatou Bensouda

Mr Ekkehard Withopf

Ms Lyne Décarie

**Counsel for Defence**

Mr Tjarda van der Spoel

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

**NOTING** the Prosecutor's Request for Measures under Article 56 filed on 19 April 2005 (the "Prosecutor's Request");

**NOTING** the Decision on the Prosecutor's Request for Measures under Article 56 issued by Pre-Trial Chamber I on 26 April 2005 (the "Decision on the Prosecutor's Request");

**NOTING** the Report of the Netherlands Forensic Institute (2005.05.02.089) filed on 4 August 2005 (the "NFI Report");

**NOTING** the *Ad hoc* Defence Counsel's Submission pursuant to the Decision of Pre-Trial Chamber I on the Prosecutor's Request for Measures under Article 56 of the Rome Statute of the International Criminal Court (the "*Ad hoc* Counsel for the Defence's Submission") filed on 22 August 2005;

**NOTING** the Prosecution's Observations on the NFI 28 July 2005 Forensic Report (the "Prosecution's Observations") filed on 23 August 2005;

**NOTING** the Submission of the NFI Correspondence of 20 September 2005 (the "NFI Correspondence") filed on 29 September 2005;

**NOTING** the Decision to Hold Consultation filed on 5 October 2005 and the said consultation held on 11 October 2005 (the "Consultation");

**NOTING** the Decision following the Consultation held on 11 October 2005 and the Prosecution's Submission on Jurisdiction and Admissibility filed on 31 October 2005 (the "Decision following the Consultation") filed on 10 November 2005, whereby the Pre-Trial Chamber I orders the Prosecution to notify the Chamber if it maintains its requests to proceed with further comparative examinations and informs the NFI that the Chamber will instruct it as to when to produce its final report and as to the content of such a report once the fifteen-day deadline given to the Prosecutor has expired;

**NOTING** the Prosecution's Additional Questions and Observations on the NFI Forensic Report (the "Prosecution's Additional Questions and Observations")<sup>1</sup> filed on 21 November 2005, whereby the Prosecution maintains its request to proceed with further comparative examination of [REDACTED] and withdraws its request for the forensic examination of [REDACTED]<sup>2</sup>;

**NOTING** article 56 of the Rome Statute (the "Statute");

**CONSIDERING** that the NFI Report concluded that [REDACTED]<sup>3</sup>;

**CONSIDERING** that the Prosecution requests an estimation of [REDACTED];

**FOR THESE REASONS,**

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<sup>1</sup> The Prosecution's communication to the NFI, ICC-01/04-94-Conf-Anx1, was annexed to the Prosecution's Additional Questions and Observations.

<sup>2</sup> The Prosecution's Additional Questions and Observations, para. 4 (i) and (ii).

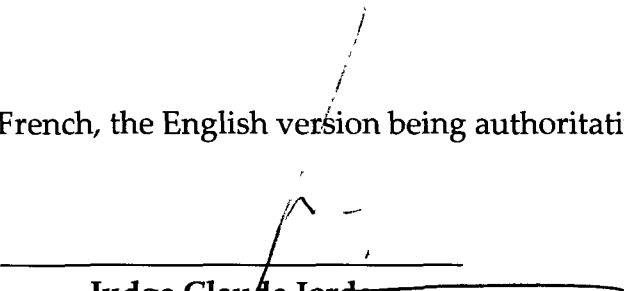
<sup>3</sup> NFI Report, page 42

**ORDERS** the NFI to proceed with further comparative examination of [REDACTED];

**ORDERS** the NFI to produce a final report within the next sixty days, written in English or French, incorporating:

- (i) The answers to the initial questions and observations of the Prosecution<sup>4</sup> and *Ad hoc* Counsel for the Defence<sup>5</sup>;
- (ii) The answers to the additional questions and observations of the Prosecution<sup>6</sup>; and
- (iii) The conclusions of the further comparative examination of [REDACTED].

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

  
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**Judge Claude Jorda**  
Presiding Judge

  
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**Judge Akua Kuenyehia**

  
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**Judge Sylvia Steiner**

Dated this Monday 28 November 2005

At The Hague

The Netherlands

<sup>4</sup> The Prosecution's Observations, paras. 10 (ii) and (iii).

<sup>5</sup> The *Ad hoc* Counsel for the Defence's Submission, paras. 22-32.

<sup>6</sup> The Prosecution's Additional Questions and Observations, para. 4 (i) and its annexed document.