



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)

The Court orders the Parties to refrain forthwith from any armed action and enjoins them to ensure full respect within the zone of conflict for fundamental human rights

THE HAGUE, 1 July 2000. The International Court of Justice (ICJ) today made an Order indicating provisional measures in the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda).

The Court unanimously held that “both Parties must, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve”.

The Court unanimously added that “both Parties must, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000”.

Finally, it unanimously stated that “both Parties must, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law”.

Reasoning of the Court

The Court first notes that the two Parties have each made a declaration recognizing the jurisdiction of the Court and that neither of these declarations includes any reservation. It accordingly concludes that these declarations constitute a prima facie basis upon which its jurisdiction in the present case might be founded.

The Court then notes Uganda’s argument that the request for the indication of provisional measures filed by the Democratic Republic of the Congo on 19 June 2000 concerns essentially the same issues as the United Nations Security Council resolution 1304 (2000) of 16 June 2000. It observes that Uganda argues that the request is inadmissible and that it is, moreover, moot, since Uganda fully accepts the resolution in question and is complying with it.

The Court states that “resolution 1304 . . . and the measures taken in its implementation . . . do not preclude [it] from acting in accordance with its Statute and with the Rules of Court”. It recalls in particular that “while there is in the Charter ‘a provision for a clear demarcation of

functions between the General Assembly and the Security Council . . . there is no similar provision anywhere in the Charter with respect to the Security Council and the Court. The Council has functions of a political nature assigned to it, whereas the Court exercises purely judicial functions. Both organs can therefore perform their separate but complementary functions with respect to the same events.” In the present case, the Court observes, the Security Council has taken no decision which would prima facie preclude the rights claimed by the Congo from “be[ing] regarded as appropriate for protection by the indication of provisional measures”.

The Court takes note, further, of the Lusaka Agreement, “an international agreement binding upon the Parties”, which also does not preclude it from acting in accordance with its Statute and with the Rules of Court.

After having recalled that the power of the Court to indicate provisional measures “has as its object to preserve the respective rights of the parties pending the decision of the Court, and presupposes that irreparable prejudice shall not be caused to rights which are the subject of dispute”, the Court observes that it is “not disputed that at this date Ugandan forces are present on the territory of the Congo, that fighting has taken place on that territory between those forces and the forces of a neighbouring State, that the fighting has caused a large number of civilian casualties in addition to substantial material damage, and that the humanitarian situation remains of profound concern”. It adds that it is also “not disputed that grave and repeated violations of human rights and international humanitarian law, including massacres and other atrocities, have been committed on the territory of the Democratic Republic of the Congo”. It finally recalls that, by virtue of Article 41 of its Statute, it possesses the power to indicate provisional measures with a view to preventing the aggravation or extension of the dispute.

Taking all of these circumstances into account, the Court is of the opinion that “persons, assets and resources present on the territory of the Congo, particularly in the area of conflict, remain extremely vulnerable, and that there is a serious risk that the rights at issue in this case . . . may suffer irreparable prejudice”. It accordingly concludes that “provisional measures must be indicated as a matter of urgency in order to protect those rights”.

The Court further states that the decision it has given today in no way prejudices the question of the jurisdiction of the Court to deal with the merits of the case, or any questions relating to the merits themselves.

Composition of the Court

The Court was composed as follows: President Guillaume; Judges Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; Registrar Couvreur.

Judges Oda and Koroma have appended declarations to the Order.

The full text of the Order and of the declarations is available on the Court’s website (<http://www.icj-cij.org>). A summary of the Order will be issued later.

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