



INTERNATIONAL COURT OF JUSTICE

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Press Release

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The Democratic Republic of the Congo institutes proceedings against Belgium concerning an international arrest warrant issued by a Belgian examining judge against the DRC's acting Minister for Foreign Affairs

The DRC seises the Court of a request for a provisional measure seeking to have the arrest warrant withdrawn forthwith

THE HAGUE, 17 October 2000. Tonight, the Democratic Republic of the Congo (DRC) filed in the Registry of the Court an Application instituting proceedings against Belgium concerning an international arrest warrant issued on 11 April 2000 by a Belgian examining judge against the DRC's acting Minister for Foreign Affairs, Mr. Yerodia Abdoulaye Ndombasi, seeking his detention and subsequent extradition to Belgium for alleged crimes constituting "grave violations of international humanitarian law". The international arrest warrant was transmitted to all States, including the DRC, which received it on 12 July 2000.

In its Application, the DRC notes that the arrest warrant, issued by Mr. Vandermeersch, examining judge at the Brussels Tribunal de première instance, characterizes the alleged facts as "crimes of international law committed by action or omission against persons or property protected by the Geneva Conventions of 12 August 1949 and the Additional Protocols I and II to those Conventions, crimes against humanity" and cites in support of this proposition provisions of the allegedly applicable Belgian Law of 16 June 1993 as amended by the Law of 10 February 1999 pertaining to the punishment of grave violations of international humanitarian law. The Democratic Republic of the Congo states that, according to the terms of the warrant, the examining judge affirms his competence to deal with facts allegedly committed on the territory of the DRC by a national of that State, without it being alleged that the victims are of Belgian nationality, or that the facts constitute violations of the security or dignity of the Kingdom of Belgium. It further observes that Article 5 of the above-mentioned Belgian Law prescribes that "the immunity conferred by a person's official capacity does not prevent application of this Law" and that Article 7 of the same Law establishes the universal applicability of the Law and the universal jurisdiction of Belgian courts in relation to "grave violations of international humanitarian law", which jurisdiction is not subject to the presence of the accused on Belgian territory.

The DRC maintains that Article 7 of the Belgian Law and the arrest warrant issued on the basis of that Article constitute "a violation of the principle whereby a State may not exercise its authority on the territory of another State and the principle of sovereign equality among all members of the United Nations", as declared in Article 2, paragraph 1, of the Charter. It also maintains that Article 5 and the arrest warrant contravene international law, in so far as they claim to derogate from the diplomatic immunity of the Minister for Foreign Affairs of a sovereign State, "deriving from Article 41, paragraph 2, of the Vienna Convention of 18 April 1961 on Diplomatic Relations".

Accordingly, the DRC asks the Court to declare that Belgium must annul the international arrest warrant issued against Mr. Yerodia Abdoulaye Ndombasi.

As a basis for the Court's jurisdiction, the DRC invokes the fact that "Belgium has accepted the Court's jurisdiction and [that], to the extent necessary, the present Application signifies acceptance of that jurisdiction by the Democratic Republic of the Congo".

The Democratic Republic of the Congo also filed tonight a request for the indication of a provisional measure seeking "to have the arrest warrant withdrawn forthwith". In its request, the DRC maintains that "the two conditions that are essential for the indication of a provisional measure under the jurisprudence of the Court — urgency and the existence of irreparable damage — are manifestly present in this case". It stresses *inter alia* that "the disputed international arrest warrant in effect prevents the [DRC] Minister from departing that State for any other State where his duties may call him and, accordingly, from accomplishing his duties".

The full text of the Application and of the request for the indication of a provisional measure submitted by the Democratic Republic of the Congo will shortly be available on the Court's website (<http://www.icj-cij.org>).

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