

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

ARMED ACTIVITIES  
ON THE TERRITORY OF THE CONGO  
(DEMOCRATIC REPUBLIC OF THE CONGO v. UGANDA)

ORDER OF 12 OCTOBER 2020

**2020**

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

ACTIVITÉS ARMÉES  
SUR LE TERRITOIRE DU CONGO  
(RÉPUBLIQUE DÉMOCRATIQUE DU CONGO c. OUGANDA)

ORDONNANCE DU 12 OCTOBRE 2020

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ORDONNANCE

INTERNATIONAL COURT OF JUSTICE

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No. 116

12 October 2020

ARMED ACTIVITIES  
ON THE TERRITORY OF THE CONGO

(DEMOCRATIC REPUBLIC OF THE CONGO v. UGANDA)

ORDER

*Present: President YUSUF; Vice-President XUE; Judges TOMKA, ABRAHAM, BENNOUNA, CAÑADO TRINDADE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, ROBINSON, CRAWFORD, GEVORGIAN, SALAM, IWASAWA; Judge ad hoc DAUDET; Registrar GAUTIER.*

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 48 and 50 of the Statute of the Court and Article 67 of its Rules,

Having regard to the Judgment dated 19 December 2005, by which the Court found, on the one hand, that the Republic of Uganda (hereinafter “Uganda”) is under obligation to make reparation to the Democratic Republic of the Congo (hereinafter “the DRC”) for the injury caused by Uganda’s violation of the principle of non-use of force in international relations and the principle of non-intervention, of obligations incumbent upon it under international human rights law and international humanitarian law, and of other obligations incumbent upon it under international law, and, on the other hand, that the DRC is under obligation to make reparation to Uganda for the injury caused by the DRC’s violation of obligations incumbent upon it under the 1961 Vienna Convention on Diplomatic Relations,

Having regard to the decision of the Court, set forth in the said Judgment, to settle, failing agreement thereon between the Parties, the question of reparation due to each of them, and to reserve for that purpose the subsequent procedure in the case,

Having regard to the document submitted to the Court by the DRC, dated 8 May 2015 and entitled “New Application to the International Court of Justice”, requesting the Court “to reopen the proceedings that it suspended in the case, in order to determine the amount of reparation owed by Uganda to the Democratic Republic of the Congo, on the basis of the evidence already transmitted to Uganda and which will be made available to the Court”,

Having regard to the Order of 8 September 2020, by which the Court decided, after hearing the Parties in accordance with Article 67, paragraph 1, of its Rules, that an expert opinion would be obtained, pursuant to Articles 48 and 50 of its Statute, regarding three heads of damage alleged by the DRC, namely, first, the loss of human life (in particular, the global estimate of the lives lost among the civilian population due to the armed conflict on the territory of the DRC and the scale of compensation due); secondly, the loss of natural resources (in particular, the approximate quantity of natural resources unlawfully exploited during the occupation by Ugandan armed forces of the district of Ituri, and the valuation of the damage suffered, as well as the approximate quantity and valuation of natural resources plundered and exploited by Ugandan armed forces elsewhere in the DRC); and, thirdly, property damage (in particular, the approximate number and type of properties damaged or destroyed by Ugandan armed forces),

Having regard to the fact that in the said Order, the Court decided that this expert opinion would be “entrusted to four independent experts appointed by Order of the Court after hearing the Parties”;

Whereas, by letters dated 10 September 2020, the Registrar informed the Parties of the Court’s decision and of the fact that the Court had identified four potential experts to carry out the expert mission, namely, in alphabetical order, Ms Debarati Guha-Sapir, Mr. Michael Nest, Mr. Geoffrey Senogles and Mr. Henrik Urdal, whose curricula vitae were appended to the said letters; and whereas the Parties were invited to communicate to the Court any observations they might wish to make on the choice of experts by Friday 18 September 2020, at the latest;

Whereas, by a letter dated 17 September 2020, the DRC stated that it had no objection to the four experts proposed by the Court;

Whereas, by a letter dated 18 September 2020, Uganda, *inter alia*, asked the Court to extend the time-limit for the submission of its observations on the potential experts identified by the Court; and whereas the President of the Court decided to extend that time-limit to Friday 25 September 2020;

Whereas, by a letter dated 25 September 2020, Uganda presented its observations on the potential experts identified by the Court, stating that it objected to the selection of three of them on various grounds, in particular, alleged preconceived views as reflected in some of the prior publications of two of the potential experts and lack of competence on material issues before the Court for two of them;

Whereas it is for the Court, in accordance with Article 67, paragraph 1, of the Rules of Court to “lay[] down the procedure to be followed” after deciding to arrange for an expert opinion pursuant to Article 50 of its Statute;

Whereas, when exercising its power under Article 50 of the Statute, the Court enjoys some discretion in the designation and appointment of experts called upon to assist it in the assessment of damage caused and the reparation due in a case;

Whereas, in the present case, it is for the Court to ascertain the respective fields of expertise which it finds relevant to the task of providing assistance in determining any reparations due, and, by extension, to satisfy itself of the relevance of the professional qualifications of the individuals to be appointed as experts;

Whereas the Court considers that Uganda has not shown that any of the prior publications of the potential experts reveal the existence of preconceived views on the subject-matter of the requested expert opinion; whereas consequently Uganda has not demonstrated that the independence of the proposed experts should be called into question; and whereas the Court concludes that none of the experts has expressed any views in their respective publications which would prevent them from examining, with the independence and impartiality required, the documentation from the case file and other publicly available information;

Whereas, in accordance with Article 67, paragraph 2, of the Rules, the expert opinion will be communicated to the Parties, which shall be given the opportunity of commenting upon it; and whereas the Parties will be given the opportunity to put questions to the experts in the course of the oral proceedings;

Whereas it will be for the Court to determine what weight, if any, to be given to the assessments contained in the expert report;

Whereas it is therefore appropriate to appoint the experts, who may inform the Registry, if need be, of any technical assistance which they consider to be required for the performance of their task,

*Appoints* the following four experts:

Ms Debarati Guha-Sapir, of Belgian nationality, Professor of Public Health at the University of Louvain (Belgium), Director of the Centre for

Research on the Epidemiology of Disasters, Brussels (Belgium), member of the Belgian Royal Academy of Medicine;

Mr. Michael Nest, of Australian nationality, Environmental Governance Adviser for the European Union's Accountability, Rule of Law and Anti-Corruption Programme in Ghana and former conflict minerals analyst for United States Agency for International Development and Deutsche Gesellschaft für Internationale Zusammenarbeit projects in the Great Lakes Region of Africa;

Mr. Geoffrey Senogles, of British nationality, Partner at Senogles & Co, Chartered Accountants, Nyon (Switzerland);

Mr. Henrik Urdal, of Norwegian nationality, Research Professor and Director of the Peace Research Institute Oslo (Norway).

Done in English and French, the English text being authoritative, at the Peace Palace, The Hague, this twelfth day of October, two thousand and twenty, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Democratic Republic of the Congo and the Government of the Republic of Uganda, respectively.

*(Signed)* Abdulqawi Ahmed YUSUF,  
President.

*(Signed)* Philippe GAUTIER,  
Registrar.