

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/05**

Date: **3 July 2024**

PRE-TRIAL CHAMBER III

Before: Judge Althea Violet Alexis-Windsor, Single Judge

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. JOSEPH KONY***

Public Document

**Victims' Response to "Defence request for variation of the Deadlines and for
Status Conference" (ICC-02/04-01/05-504)**

Source: Office of Public Counsel for Victims

Document to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

Mr Karim A. A. Khan KC
Mr Mame Mandiaye Niang
Ms Leonie von Braun

Counsel for the Defence

Peter Haynes KC

Legal Representatives of the Victims

Ms Paolina Massidda
Ms Sarah Pellet

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
Ms Sarah Pellet

**The Office of Public Counsel for the
Defence**

Ms Marie O'Leary

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Mr Juan Escudero

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Counsel of the Office of Public Counsel for Victims, appointed to represent the victims authorised to participate in the *Kony* case,¹ as well as the victims and applicants in the Situation in Uganda (the “Legal Representatives”),² submit their response to the “Defence Request for Variation of Deadlines and for a Status Conference” (the “Request”).³

2. The Legal Representatives do not oppose a limited extension of 8 days to the relevant deadlines set in paragraphs 27 a. and b. of the 2 May 2024 Decision,⁴ from the date of appointment of Counsel. The Legal Representatives oppose any extension of the deadlines set in paragraph 27 c. of the 2 May 2024 Decision. The set date of 30 days from the appointment of Counsel is proportionate. Indeed, the issues concerning the participation of victims and their concerns regarding the Document Containing the Charges are of paramount importance and shall be ruled upon by the Chamber within a reasonable timeframe.

¹ See the “Decision on victims’ applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06” (Pre-Trial Chamber II), [No. ICC-02/04-101](#) and [No. ICC-02/04-01/05-252](#), 13 August 2007; the “Decision on victims’ applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0100/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06” (Pre-Trial Chamber II), [No. ICC-02/04-125](#), 14 March 2008; the “Decision on legal representation of Victims a/0090/06, a/0098/06, a/0101/06 a/0112/06, a/0118/06, a/0119/06 and a/0122/06” (Pre-Trial Chamber II), [No. ICC-02/04-01/05-267](#), 15 February 2008; and the “Decision on legal representation of Victims a/0065/06, a/0066/06, a/0068/06, a/0088/06, a/0090/06 to a/0096/06, a/0098/06, a/0102/06, a/0103/06, a/0112/06, a/0115/06, a/0117/06, a/0118/06, a/0120/06 to a/0126/06, a/0076/07 to a/0078/07, a/0081/07, a/0082/07, a/0084/07, a/0085/07, a/0090/07 to a/0103/07, a/105/07 to a/0108/07, a/0112/07, a/0115/07, a/0117/07, a/0118/07 and a/0123/07”, [No. ICC-02/04-176](#) (Pre-Trial Chamber II), 9 February 2009.

² See the “Decision on Victim’s Participation in Proceedings Related to the Situation in Uganda” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/04-191](#), 12 March 2012.

³ See the “Defence Request for Variation of Deadlines and for a Status Conference”, [No. ICC-02/04-01/05-504](#), 28 June 2024 (the “Request”).

⁴ See the “Decision on the Procedure for Appointing Counsel” (Pre-Trial Chamber III, Single Judge), [No. ICC-02/04-01/05-499](#), 2 May 2024 (the “2 May 2024 Decision”).

II. PROCEDURAL HISTORY

3. On 4 March 2024, Pre-Trial Chamber II (the “Chamber”) decided that the confirmation of charges to be held in Mr Kony’s absence will commence on 15 October 2024.⁵

4. On 2 May 2024, the Single Judge issued the Decision on the Procedure for Appointing Counsel setting, *inter alia*, certain deadlines for submissions to be filed by the Defence Counsel once appointed (the “2 May 2024 Decision”).⁶

5. On 14 June 2024, the Registry submitted a Report providing recommendation for the appointment of Counsel for Mr Kony.⁷

6. On 19 June 2024, the Chamber instructed the Registry to finalise the appointment of Counsel for Mr Kony.⁸

7. On 21 June 2024, the Registry formalise the appointment of Mr Haynes as Counsel for Mr Kony.⁹

8. On 28 June 2024, the Defence its Request requesting that all deadlines “*start to run from 30 days of the Defence team becoming operational, or 15 August 2024, whichever date is the earliest*”.¹⁰

9. On 2 July 2024, by e-mail, the Single Judge shortened the deadline for responses to the Request at 3 July 2024.¹¹

⁵ See the “Second decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence” (Pre-Trial Chamber III), [No. ICC-02/04-01/05-481](#), 4 March 2024, para. 12 and p. 11.

⁶ See the 2 May 2024 Decision, *supra* note 4.

⁷ See the “Registry’s Report on the implementation of ‘Decision on the Procedure for Appointing Counsel’ dated 2 May 2024 (ICC-02/04-01/05-499)”, [No. ICC-02/04-01/05-501](#), 14 June 2024.

⁸ See the “Order to Appoint Counsel” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/04-01/05-502](#), 19 June 2024.

⁹ See the “Notification of the Appointment of Mr Peter Haynes KC as Counsel for Mr Joseph Kony”, [No. ICC-02/04-01/05-503](#), 21 June 2024.

¹⁰ See the Request, *supra* note 3, para. 18.

¹¹ See the email from Pre-Trial Chamber III, entitled “Kony case - Order shortening the time limit to respond to ICC-02/04-01/05-504 – public”, 2 July 2024 at 10:46.

III. SUBMISSIONS

10. Victims acknowledge that upon appointment, the Defence Counsel would need some time to familiarise with the case record. Yet, Victims have been waiting for twenty years for the start of the proceedings into the tragic events they suffered and they have a legitimate expectation that proceedings advance as expeditiously as possible. The variation proposed by Counsel to "*30 days from the Defence team becoming operational, or 15 August 2024, whichever date is earlier*",¹² is unclear in its starting point and not proportionate to the circumstances.

11. In light of the above, Victims do not oppose a limited extension of 8 days to the relevant deadlines set in paragraphs 27 a. and b. the 2 May 2024 Decision, from the date of appointment of Counsel. The Legal Representatives posit that responses to a certain number of submissions which, by the Defence's own admission,¹³ are central to the confirmation process in the present case shall be filed no later than 12 July 2024. This applies to the issue of holding the confirmation of charges hearing in the suspect's absence and will enable the Chamber to rule expeditiously.

12. The Legal Representatives oppose any extension of time in relation to the deadlines set in paragraphs 27 c. of the 2 May 2024 Decision. The issues related to the participation of victims and their concerns with regard to the Document Containing the Charges are of the utmost importance and bear a direct impact on the rights of Victims in the present proceedings. In this regard, Victims have been waiting for several months to learn how the process will unfold and the Registry needs to organise the collection and assessment of new applications forms. The Legal Representatives emphasise that a potentially high number of individuals may qualify as victims in this case. Therefore, they stress that the deadline to respond to victim-related matters should not be extended, so that the Chamber can rule on the process for victims' participation as soon as possible.

¹² See the Request, *supra* note 3, para. 18.

¹³ *Idem*, para. 17.

13. Finally, the Legal Representatives do not oppose the request to convene a status conference and leave the matter to the discretion of the Chamber.

Respectfully submitted,



Paolina Massidda



Sarah Pellet

Dated this 3rd day of July 2024

At The Hague, The Netherlands