

Situation in Uganda

ICC-PIDS-CIS-UGA-001-006/18\_Eng

***The Prosecutor v. Joseph Kony and Vincent Otti***

Updated: April 2018

ICC-02/04-01/05

Suspected of crimes against humanity and war crimes committed in Uganda since July 2002. Suspects not in ICC custody.

## Joseph Kony



**Date of birth:** Unknown, approximately 50 years old

**Place of birth:** Omoro County, Gulu district, Uganda

**Nationality:** Ugandan

**Current status:** Alleged Commander-in-Chief of the Lord's Resistance Army (LRA)

**Warrant of arrest:** Issued under seal on 8 July 2005, amended on 27 September 2005 | Unsealed on 13 October 2005

**Status of proceedings:** Execution of the arrest warrant is pending

## Charges

The warrant of arrest for Joseph Kony lists thirty-three counts on the basis of his individual criminal responsibility (articles 25(3)(a) and 25(3)(b) of the Statute) including:

- **Twelve counts of crimes against humanity:** murder (article 7(1)(a)); enslavement (article 7(1)(c)); sexual enslavement (article 7(1)(g)); rape (article 7(1)(g)); inhumane acts of inflicting serious bodily injury and suffering (article 7(1)(k)); and
- **Twenty-one counts of war crimes:** murder (article 8(2)(c)(i)); cruel treatment of civilians (article 8(2)(c)(i)); intentionally directing an attack against a civilian population (article 8(2)(e)(i)); pillaging (article 8(2)(e)(v)); inducing rape (article 8(2)(e)(vi)); forced enlisting of children (8(2)(e)(vii)).

## Vincent Otti



**Date of birth:** Unknown, approximately 70 years old

**Place of birth:** Atiak Sub-County, Gulu district, Uganda

**Nationality:** Ugandan

**Current status:** Alleged Vice-Chairman and Second-in-Command of the LRA

**Warrant of arrest:** Issued under seal on 8 July 2005 | Unsealed on 13 October 2005

**Status of proceedings:** Execution of the arrest warrant is pending

## Charges

The warrant of arrest for Vincent Otti lists thirty-two counts on the basis of his individual criminal responsibility (article 25(3)(b) of the Statute) including:

- Eleven counts of crimes against humanity: murder (article 7(1)(a)); sexual enslavement (article 7(1)(g)); inhumane acts of inflicting serious bodily injury and suffering (article 7(1)(k)); and
- Twenty-one counts of war crimes: inducing rape (article 8(2)(e)(vi)); intentionally directing an attack against a civilian population (article 8(2)(e)(i)); forced enlistment of children (8(2)(e)(vii)); cruel treatment of civilians (article 8(2)(c)(i)); pillaging (article 8(2)(e)(v)); murder (article 8(2)(c)(i)).

## Alleged crimes

Pre-Trial Chamber II of the ICC is of the opinion that there are reasonable grounds to believe that since 1 July 2002 to 2004, the LRA, an armed group allegedly carried out an insurgency against the Government of Uganda and the Ugandan Army (also known as the Uganda People's Defence Force – UPDF) and local defence units (LDUs).

The LRA has been directing attacks against both the UPDF and LDUs and against civilian populations; that, in pursuing its goals, the LRA has engaged in a cycle of violence and established a pattern of "brutalisation of civilians" by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements and that abducted civilians, including children, are said to have been forcibly "recruited" as fighters, porters and sex slaves to serve the LRA and to contribute to attacks against the Ugandan army and civilian communities.

Pre-Trial Chamber II also found that there are reasonable grounds to believe that:

- The LRA was allegedly founded and is led by Joseph Kony, the Chairman and Commander-in-Chief, and that the LRA is organised in a military-type hierarchy and operates as an army;
- The LRA forces are allegedly divided into four brigades named Stockree, Sinia, Trinkle and Gilva, and that, since July 2002, the LRA's hierarchy of posts under Joseph Kony's overall leadership has included Vincent Otti, the Vice-Chairman and Second-in-Command; the Army Commander; three senior posts of Deputy Army Commander, Brigade General and Division Commander; and four Commanders of equal rank, each of whom leads one of the four LRA brigades.
- Joseph Kony, Vincent Otti and other senior LRA commanders are allegedly the key members of "Control Altar", the section representing the core LRA leadership responsible for devising and implementing LRA strategy, including standing orders to attack and brutalise civilian populations.
- In his capacity as overall leader and Commander-in-Chief of the LRA, individually or together with other persons whose arrests are sought by the Prosecutor, Joseph Kony allegedly committed, ordered or induced the commission of several crimes within the jurisdiction of the Court during the period from 1 July 2002 to 2004.

## Key judicial developments

### REFERRAL AND OPENING OF THE INVESTIGATION

Uganda signed the Rome Statute on 17 March 1999 and ratified on 14 June 2002 becoming a State Party to the International Criminal Court.

On 16 December 2003, the Government of Uganda referred the situation concerning northern Uganda to the Office of the Prosecutor.

On 29 July 2004, the Prosecutor determined a reasonable basis to open an investigation into the situation concerning northern Uganda.

### WARRANTS OF ARREST

On 6 May 2005, amended and supplemented on 13 May 2005 and additionally on 18 May 2005, the Prosecutor submitted the request for the warrants of arrest for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

On 8 July 2005, Pre-Trial Chamber II issued warrants of arrest under seal against the named individuals for the commission of crimes against humanity and war crimes and requested the Republic of Uganda to search for, arrest, detain and surrender to the Court, Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

On 9 September 2005, the Prosecutor submitted an "Application for Unsealing of Warrants of Arrest Issued on 8 July 2005" to Pre-Trial Chamber II.

On 27 September 2005, Pre-Trial Chamber II requested the Democratic Republic of the Congo (DRC) to search for, arrest, detain and surrender to the Court, Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

On 13 October 2005, Pre-Trial Chamber II decided to unseal the warrants of arrest for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

Joseph Kony and Vincent Otti remain at large, ten years after the issuance of the warrants of arrest.

### PASSING OF 2 SUSPECTS

On 11 July 2007, the proceedings against Raska Lukwiya, for whom a warrant of arrest was issued on 8 July 2008, were terminated following his death.

On 10 September 2015, Pre-trial Chamber II terminated proceedings against Okot Odhiambo following the forensic confirmation of his passing.

According to these decisions, the warrants of arrest are rendered without effect and the names of the two suspects were removed from the case.

#### SEPARATION OF THE DOMINIC ONGWEN CASE

On 16 January 2015, Dominic Ongwen was surrendered to the ICC's custody. On 6 February 2015, Pre-Trial Chamber II severed the proceedings against Dominic Ongwen from the case of *The Prosecutor v. Joseph Kony et al.* As the other suspects in the case have not appeared or have not been apprehended yet, the Chamber deemed it necessary to separate the case so as not to delay the pre-trial proceedings against Mr Ongwen. After having consulted the Prosecutor, the Chamber decided not to proceed against the other three suspects *in absentia*.

#### REQUESTED INFORMATION REGARDING DEVELOPMENTS IN UGANDA

On 29 February 2008, Pre-Trial Chamber II requested the Government of the Republic of Uganda to provide information on the implications of the following two documents on the execution of the warrants of arrest, namely (a) the "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement," signed on 29 June 2007, which envisaged, *inter alia*, the establishment of national legal arrangements for ensuring justice, reconciliation and the accountability of individuals alleged to have committed serious crimes or human rights violations in the course of the northern and north-eastern Uganda conflict; and the (b) the "Annexure to the Agreement on Accountability and Reconciliation signed between the Government of the Republic of Uganda and the Lord's Resistance Army" on 19 February 2008, providing for the establishment of a special division of the High Court of the Republic of Uganda, entrusted with the task of "try[ing] individuals who are alleged to have committed serious crimes during the conflict" in Uganda.

On 27 March 2008, the Government of Uganda sent its response in which explained that "[t]he establishment of the special division of the High Court and the enactment of the relevant legislation shall take place after the signing of the final peace agreement with the Lord's Resistance Army/Movement. With respect to the impact of these developments on the execution of the arrest warrants, the Government of Uganda stated that the special division of the High Court is not meant to supplant the work of the International Criminal Court."

On 18 June, Pre-Trial Chamber II requested further information from the Republic of Uganda, after the reported failure to sign the final peace agreement by the respective parties. In particular, the Chamber requested information as to the steps undertaken by the Republic of Uganda with a view to executing the warrants of arrest.

On 9 July 2008, the Republic of Uganda responded that the comprehensive peace agreement was indeed not signed; that the Republic of Uganda remained committed to executing the warrants of arrest; and that the Government of Uganda continues to spare no effort in its attempt to secure the cooperation of the DRC in order to trace the LRA in the Garamba National Park, which is on the DRC territory.

#### PROCEEDINGS REGARDING THE ADMISSIBILITY OF THE CASE

On 21 October 2008, Pre-Trial Chamber II decided to initiate proceedings under article 19(1) of the Rome Statute with a view to determine whether the Court could still investigate and prosecute the case against Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen. In the same decision, Pre-Trial Chamber II appointed a Counsel for the Defence for the purpose of these proceedings and also invited the Prosecutor, the Counsel for the Defence, the Government of Uganda and victims, to submit their observations on the admissibility of the case.

Based on the submissions of the Prosecution, the Counsel for the Defence, the Government of Uganda and the Office of Public Counsel for Victims, submitted on 18 November 2008, Pre-Trial Chamber II determined on 10 March 2009, that "at this stage the case is admissible under article 17 of the Statute".

On 16 March 2009, the Counsel for the Defence lodged an appeal against Pre-Trial Chamber II's "Decision on the admissibility of the case under article 19(1) of the Statute of 10 March 2009."

On 16 September 2009, the Appeals Chamber rendered its decision confirming the decision previously taken by Pre-Trial Chamber II.

#### PARTICIPATION OF VICTIMS

Pre-Trial Chamber II has granted 41 persons the status of victim authorised to participate in the case.

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**Composition of Pre-Trial Chamber II**

Judge Antoine Kesia-Mbe Mindua, Presiding Judge

Judge Tomoko Akane

Judge Rosario Salvatore Aitala

**Representation of the Office of the Prosecutor**

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

**Defence Counsel for Joseph Kony and Vincent Otti**

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**Legal Representatives of the Victims**