



**Original: English**

**No. ICC-02/04-01/05  
Date: 15 February 2024**

**PRE-TRIAL CHAMBER II**

**Before: Judge Rosario Salvatore Aitala, Presiding  
Judge Tomoko Akane  
Judge Sergio Gerardo Ugalde Godínez**

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

**Public**

**Decision rejecting the OPCD request to make observations on the notification efforts and outreach activities**

**Decision 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  
Mr Mame Mandiaye Niang  
Ms Leonie von Braun

**Counsel for the Defence**

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**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**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**PRE-TRIAL CHAMBER II** of the International Criminal Court (the ‘Chamber’) issues this Decision rejecting the ‘OPCD request related to the notification efforts and outreach activities’ (the ‘Request’),<sup>1</sup> filed by the Office of Public Counsel for the Defence (the ‘OPCD’).

1. On 23 November 2023, the Chamber issued its ‘Decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence’,<sup>2</sup> in which it instructed the Prosecution to file a document containing the charges it intends to present against Mr Kony (the ‘DCC’); and the Registry to submit a plan indicating the outreach activities and notification efforts it would pursue to inform Mr Kony of such charges.
2. On 19 December 2023, the Chamber received the ‘Registry’s Proposed Plan on Outreach Activities and Notification Efforts’ (the ‘Registry’s Plan’)<sup>3</sup> and on 19 January 2024, the Prosecution submitted the DCC.<sup>4</sup>
3. On 26 January 2024, the Chamber issued its ‘Order to initiate notification efforts and related outreach activities’ (the ‘Order’),<sup>5</sup> instructing the Registry: (i) to use the DCC and initiate the Registry’s Plan; (ii) as regards outreach activities that involve limited time or space to convey a message, to use a summary of the DCC provided by the Chamber; (iii) as regards the proposed notification efforts, take all reasonable steps to inform Mr Kony of the charges as described in the DCC and ensure that the latter and its Acholi translation are easily accessible on the Court’s website.
4. On 7 February 2024, the OPCD submitted its Request, asking to be recognised as having standing to make the request under regulation 77(4)(d) of the Regulations of the Court on the basis of a previous leave by the Chamber to make submissions on specific issues in this case. The OPCD indicates two issues that in its view must be remedied by the Chamber.

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<sup>1</sup> 7 February 2024, [ICC-02/04-01/05-476](#).

<sup>2</sup> [ICC-02/04-01/05-466](#).

<sup>3</sup> [ICC-02/04-01/05-473](#).

<sup>4</sup> [ICC-02/04-01/05-474](#).

<sup>5</sup> [ICC-02/04-01/05-475](#).

5. On 14 February 2024, the Prosecution filed a response<sup>6</sup> to the OPCD Request, asking the Chamber to dismiss the Request *in limine* due to the OPCD's lack of standing to make submissions on behalf of Mr Kony or, alternatively, reject the request on its merits.

6. The OPCD grounds its request on regulation 77(4)(d) of the Regulations of the Court. The Chamber observes that it has neither instructed the OPCD, nor granted it leave, to 'raise issues on behalf' of Mr Kony beyond the observations made by the OPCD in the context of the Prosecution's initial request to hold a confirmation hearing pursuant to article 61(2)(b) of the Statute.

7. The Chamber recalls that at this stage, as well as during any other stage of the proceedings, it is among its duties to protect the interests of the suspect while ensuring the normal and timely conduct of the proceedings. Concerning the request by the OPCD, and as it stated before,<sup>7</sup> the Chamber does not consider it necessary to assign a role to the OPCD at the current stage of the proceedings. Should the Chamber decide to hold a confirmation hearing *in absentia*, it will, at this stage of the proceedings, appoint counsel to represent Mr Kony's interests in the context of the confirmation of charges proceedings.

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<sup>6</sup> Prosecution's Response to the OPCD Request related to Notification and Outreach Activities, [ICC-02/04-01/05-477](#).

<sup>7</sup> Decision rejecting the OPCD's request to access the record of the *Kony* case, 19 December 2023, [ICC-02/04-01/05-472](#).

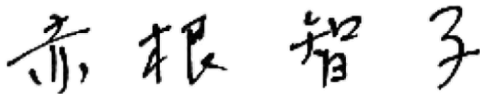
**FOR THESE REASONS, THE CHAMBER HEREBY**

**REJECTS** the OPCD Request.

Done in English. A French translation will follow. The English version remains authoritative.



**Judge Rosario Salvatore Aitala**  
**Presiding**



**Judge Tomoko Akane**



**Judge Sergio Gerardo Ugalde Godínez**

Dated this Thursday, 15 February 2024

At The Hague, The Netherlands