

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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No.: ICC-02/04-01/05  
Date: 11 March 2024

**PRE-TRIAL CHAMBER II**

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

**SITUATION IN UGANDA**

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

**Public Document**

**Application for recognition of the status of victims in the case of  
*The Prosecutor v. Joseph Kony*  
to the victims participating in the case of  
*The Prosecutor v. Dominic Ongwen*  
and matters related to the participation of victims in the proceedings**

**Source:** Office of Public Counsel for Victims

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

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**Detention Section**

**Victims Participation and Reparations  
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## I. INTRODUCTION

1. Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”), appointed to represent the victims authorised to participate in the *Kony* case,<sup>1</sup> as well as the victims and applicants in the Situation in Uganda (the “Legal Representatives”)<sup>2</sup> request Pre-Trial Chamber II (the “Chamber”) to recognise the status of victims in the present case to the victims who already participated in the *Ongwen* case.<sup>3</sup>

2. Counsel posit that (A) this course of events is justified by the fact that the crimes and events charged are identical in both cases; and (B) adopting this approach would be in line with the practice of the Court and in the best interests of the victims, while greatly contributing to the efficiency of the proceedings.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Counsel recall that Ms Massidda is also appointed as Common Legal Representative in the *Ongwen* case. See the “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-350, 27 November 2015, p. 19; the “Decision on issues concerning victims’ participation” (Pre-Trial Chamber II, Single Judge), No. [ICC-02/04-01/15-369](#), 15 December 2015, pp. 10-11; the “Second decision on contested victims’ applications for participation and legal representation of victims” (Pre-Trial Chamber II, Single Judge), No. [ICC-02/04-01/15-384](#), 24 December 2015, pp. 20-22; and the “Decision on the ‘Request for a determination concerning legal aid’ submitted by the legal representatives of victims” (Trial Chamber IX, Single Judge), No. [ICC-02/04-01/15-445](#), 26 May 2016, para. 13.

## II. PROCEDURAL HISTORY

3. On 8 July 2005, the Pre-Trial Chamber, in its previous composition, issued the Warrant for the Arrest of Mr Joseph Kony (“Mr Kony”).<sup>4</sup>

4. On 9 March 2012, the Single Judge of the former Pre-Trial Chamber appointed the OPCV as the legal representative of all victims and victim applicants pending the appointment of a common legal representative in the Situation.<sup>5</sup>

5. On 4 February 2021, Trial Chamber IX issued the Trial Judgment,<sup>6</sup> finding Mr Dominic Ongwen (“Mr Ongwen”) guilty of 61 charges of war crimes and crimes against humanity, including for the crimes currently charged by the Prosecution in the Document Containing the Charges for Mr Kony (the “DCC”).<sup>7</sup> On 15 December 2022, the Appeals Chamber confirmed the Trial Judgment.<sup>8</sup>

6. On 23 November 2023, ruling on a Prosecution’s request,<sup>9</sup> the Chamber found that there are grounds to hold a confirmation of charges hearing in the absence of Mr Kony, pending further steps to be undertaken by the Prosecution and the Registry.<sup>10</sup>

7. On 19 January 2024, the Prosecution filed the DCC.<sup>11</sup>

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<sup>4</sup> See the “Warrant of Arrest for Joseph Kony issued on 8 July 2005 as amended on 27 September 2005” (Pre-Trial Chamber II), [No. ICC-02/04-01/05-53](#), 27 September 2005. A lesser redacted version, [No. ICC-02/04-01/05-456-Anx](#), was notified on 13 March 2023.

<sup>5</sup> See the “Decision on Victim’s Participation in Proceedings Related to the Situation in Uganda”, *supra* note 2.

<sup>6</sup> See the “Trial Judgment” (Trial Chamber IX), No. ICC-02/04-01/15-1762-Conf and [No. ICC-02/04-01/15-1762-Red](#), 4 February 2021.

<sup>7</sup> See the “Document Containing the Charges”, [No. ICC-02/04-01/05-474](#), 19 January 2024 (the “DCC”).

<sup>8</sup> See the “Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled ‘Trial Judgment’”, [No. ICC-02/04-01/15-2022-Red](#), 15 December 2022.

<sup>9</sup> See the “Public Redacted Version of the ‘Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence’” (Pre-Trial Chamber II), [No. ICC-02/04-01/05-446-Red](#), 24 November 2022.

<sup>10</sup> See the “Decision on the Prosecution’s request to hold a confirmation of charges hearing in the *Kony* in the suspect’s absence” (Pre-Trial Chamber II), [No. ICC-02/04-01/05-466](#), 23 November 2023, p. 24.

<sup>11</sup> See the DCC, *supra* note 7.

8. On 4 March 2024, the Chamber found that all reasonable steps to inform Mr Kony of the charges against him, within the meaning of article 61(2)(b) of the Rome Statute (the “Statute”), have been taken and decided that the confirmation of charges hearing will be held in the Suspect’s absence, should he not appear, starting on 15 October 2024.<sup>12</sup>

### III. SUBMISSIONS

#### A. Overlapping of the crimes and events in both cases

9. A review of the DCC concerning Mr Kony clearly demonstrates that a number of crimes and events described therein are the same for which Mr Ongwen was convicted. In particular, the DCC includes charges for the four attacks to the IDP camps in Pajule (Counts 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13), Odek (Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13), Lukodi (Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13) and Abok (Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12) for which Mr Ongwen was convicted. The crimes and events described in the DCC concerning said attacks overlap with, or encompass comprehensively, those contained in the Trial Judgment for Mr Ongwen and share an important number of similarities, including the temporal and geographical parameters. In relation to the sexual and gender based crimes (the “SGBCs”) and the war crime of conscripting children under 15 years and their use to actively participate in the hostilities (the “child soldiers”), the crimes and events described in the DCC for Mr Kony (in particular, counts 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29) also largely encompass those crimes for which Mr Ongwen was convicted in the Trial Judgment.

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<sup>12</sup> 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 II) [No. ICC-02/04-01/05-481](#), 4 March 2024.

10. In particular, the Trial Chamber found Mr Ongwen guilty of the following crimes and counts by establishing that, *inter alia*:

(a) Within the context of the attack carried out by the LRA on **the Pajule IDP camp** on 10 October 2003, Mr Ongwen committed, jointly with other LRA commanders and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such, as a war crime pursuant to Article 8(2)(e)(i) (Count 1); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) (Count 2); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) (Count 3); (iv) torture as a crime against humanity, pursuant to Article 7(1)(f) (Count 4); (v) torture as a war crime, pursuant to Article 8(2)(c)(i) (Count 5); (vi) enslavement as a crime against humanity, pursuant to Article 7(1)(c) (Count 8); (vii) pillaging as a war crime, pursuant to Article 8(2)(e)(v) (Count 9); and (viii) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 10).<sup>13</sup>

(b) Within the context of the attack carried out by the LRA on **the Odek IDP camp** on 29 April 2004, Mr Ongwen committed, jointly with Mr Kony and other Sinia brigade leaders and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such, as a war crime pursuant to Article 8(2)(e)(i) (Count 11); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) (Count 12); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) (Count 13); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a), in conjunction with Article 25(3)(f) (Count 14); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i), in conjunction with Article 25(3)(f) (Count 15); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) (Count 16); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) (Count 17); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) (Count 20); (ix) pillaging as

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<sup>13</sup> See the "Trial Judgment", *supra* note 6, para. 2874.

a war crime, pursuant to Article 8(2)(e)(v) (Count 21); (x) outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) (Count 22); and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 23).<sup>14</sup>

(c) Within the context of the attack carried out by the LRA on **the Lukodi IDP camp** on or about 19 May 2004, Mr Ongwen committed, through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such, as a war crime pursuant to Article 8(2)(e)(i) (Count 24); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) (Count 25); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) (Count 26); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a), in conjunction with Article 25(3)(f) (Count 27); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i), in conjunction with Article 25(3)(f) (Count 28); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) (Count 29); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) (Count 30); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) (Count 33); (ix) pillaging as a war crime, pursuant to Article 8(2)(e)(v) (Count 34); (x) destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) (Count 35) and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 36).<sup>15</sup>

(d) Within the context of the attack carried out by the LRA on **the Abok IDP camp** on or about 8 June 2004, Mr Ongwen committed, through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such, as a war crime pursuant to Article 8(2)(e)(i) (Count 37); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) (Count 38); (iii) murder as a war crime, pursuant to Article

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<sup>14</sup> *Idem*, para. 2927.

<sup>15</sup> *Idem*, para. 2973.

8(2)(c)(i) (Count 39); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a), in conjunction with Article 25(3)(f) (Count 40); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i), in conjunction with Article 25(3)(f) (Count 41); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) (Count 42); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) (Count 43); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) (Count 46); (ix) pillaging as a war crime, pursuant to Article 8(2)(e)(v) (Count 47); (x) destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) (Count 48) and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 49).<sup>16</sup>

(e) Between 1 July 2002 and 31 December 2005, Mr Ongwen committed, jointly with Mr Kony and the Sinia brigade leadership and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following **SGBCs**: (i) forced marriage as an other inhumane act, pursuant to Article 7(1)(k) (Count 61); (ii) torture as a crime against humanity, pursuant to Article 7(1)(f) (Count 62); (iii) torture as a war crime, pursuant to Article 8(2)(c)(i) (Count 63); (iv) rape as a crime against humanity, pursuant to Article 7(1)(g) (Count 64); (v) rape as a war crime, pursuant to Article 8(2)(e)(vi) (Count 65); (vi) sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) (Count 66); (vii) sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) (Count 67); and (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 68).<sup>17</sup>

(f) Between 1 July 2002 and 31 December 2005, Mr Ongwen committed, jointly with Mr Kony and the Sinia brigade leadership and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, **conscriptio**n of

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<sup>16</sup> *Idem*, para. 3020.

<sup>17</sup> *Idem*, para. 3100.



**children and their use in armed hostilities as a war crime**, pursuant to Article 8(2)(e)(vii) of the Statute (Counts 69-70).<sup>18</sup>

11. In the DCC, the Prosecution alleges that:

(a) At least between 1 July 2002 and 31 December 2005, Mr Kony shared a common plan or agreement with Vincent Otti, members of Control Altar, and the LRA brigade commanders to attack civilians in northern Uganda whom the LRA perceived to be supporting the Government of Uganda, and to sustain the LRA, by committing the charged crimes (“Common Plan”). The members of the Common Plan, each for at least part of the charged period, included, *inter alia*, Mr Ongwen and others. Mr Kony and the co-perpetrators acted in a coordinated manner to implement the Common Plan through the hierarchically organised structure of the LRA which was jointly controlled by Mr Kony and the co-perpetrators.<sup>19</sup>

(b) On or about 10 October 2003, the LRA attacked **the Pajule IDP camp**. The attack was carried out pursuant to Mr Kony’s general orders to attack civilians. Vincent Otti was the overall commander of the attack. LRA fighters from Control Altar, Trinkle brigade and Sinia brigade participated in the attack. Commanders involved included, among others, Mr Ongwen.<sup>20</sup>

(c) On or about 29 April 2004, the LRA attacked **the Odek IDP camp**. The attack was carried out pursuant to Mr Kony’s general orders to attack civilians. The LRA fighters, including children under the age of 15, from Sinia Brigade and Gilva Brigade participated in the attack, under the overall command of Sinia brigade commander Mr Ongwen.<sup>21</sup>

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<sup>18</sup> *Idem*, para. 3115.

<sup>19</sup> See the DCC, *supra* note 7, para. 17.

<sup>20</sup> *Idem*, paras. 26 and 27.

<sup>21</sup> *Idem*, paras. 49 and 50.

(d) On or about 19 May 2004, the LRA attacked **the Lukodi IDP camp**. The attack was carried out in accordance with Mr Kony's general orders to attack civilians. The overall commander of the attack was Sinia Brigade Commander Mr Ongwen. After the attack, Mr Ongwen reported about the attack on the LRA radio to Mr Kony who encouraged him to continue with his activities.<sup>22</sup>

(e) On or about 8 June 2004, the LRA attacked **the Abok IDP camp**. The attack was carried out pursuant to Mr Kony's general orders to attack civilians. LRA fighters from the Sinia brigade participated in the attack, under the command of Brigade Commander Mr Ongwen. Mr Ongwen communicated the results of the attack on the LRA radio to other LRA commanders and Mr Kony.<sup>23</sup>

(f) As for **the SGBCs**, from at least 1 July 2002 until 31 December 2005, Mr Kony and his co-perpetrators engaged in a coordinated campaign to abduct women and girls and integrate them into the LRA. In this period, at least hundreds of girls and women were abducted from villages, schools, IDP camps and other locations in northern Uganda by the LRA. The LRA abducted these women and girls to serve as domestic servants and forced wives to LRA commanders and fighters. They were distributed to LRA commanders and fighters. This distribution was the prerogative of Mr Kony or, in his absence, LRA brigade and battalion commanders. LRA fighters regularly forced abducted women and girls who had been distributed to them into sexual intercourse. This included but is not limited to at least seven women assigned to Mr Ongwen. As a result of the rapes they had to endure, hundreds of women and girls became pregnant. These women and girls included but are not limited to three 'wives' of Mr Ongwen.<sup>24</sup>

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<sup>22</sup> *Idem*, paras. 64, 65 and 70.

<sup>23</sup> *Idem*, paras. 71, 72 and 78.

<sup>24</sup> *Idem*, paras. 94, 95, 102 and 104.

(g) As for child soldiers, **children younger than 15 years of age were abducted and integrated into the LRA and used to participate actively in hostilities.** The abducted children were trained and were assigned to service in the LRA units. Children under the age of 15 took part in fighting against the UPDF. During some attacks relevant to the charges, children under the age of 15 participated in the hostilities. Mr Kony and the LRA perpetrators knew or should have known that the children were less than 15 years old.<sup>25</sup>

12. Counsel therefore submit that the charges against Mr Kony include the crimes for which Mr Ongwen was finally convicted encompassing the temporal and geographical parameters of the charges related to the four attacks, SGBCs, and child soldiers. Straightforwardly, the victims of the crimes for which Mr Ongwen was found guilty are integral part of the population victimised by the crimes allegedly committed by Mr Kony, as included in the DCC. Consequently, the victims who participate in the *Ongwen* case should be allowed to directly participate at the pre-trial phase in the present case.

13. Indeed, their status as victims (in relation to the crimes concerning the four attacks, SGBCs, and child soldiers) should be recognised in the current proceedings, especially considering that Pre-Trial Chamber II and Trial Chamber IX, following a review by the Registry of all applications, already made an independent and final assessment of the information contained in the victims' applications of the *Ongwen* case against the parameters of that case which, as shown *supra*, are identical to the charges brought by the Prosecution in the *Kony* case.

14. In this regard, Counsel note that this course of event is in line with the practice of the Court. For example, in the *Blé Goudé* case, the Single Judge considered that her previous assessment of the link between the events described, the crimes charged and the link between those events and the harm(s) suffered by the applicants in the *Gbagbo*

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<sup>25</sup> *Idem*, para. 93.

case was sufficient to allow the direct participation at the pre-trial stage of the same victims in the *Blé Goudé* case.<sup>26</sup> The Single Judge reasoned that “*the charges against Mr Blé Goudé are so similar to the ones against Mr Gbagbo that applicants fulfilling the criteria of rule 85 in one case will in principle satisfy the criteria in the other*”.<sup>27</sup> Accordingly, the Single Judge concluded that “*it is not necessary to assess if (1) the events described by the applicants constitute one of the crimes charged; or if (2) there is a sufficient causal link between such events and the harm suffered because the very same assessment in respect to the same applicants was already conducted by the Single Judge in the context of the Gbagbo Case*”.<sup>28</sup>

15. This approach is also equally consistent with Pre-Trial Chamber I’s decision in the *Banda and Jerbo* case, where victims admitted to participate in the *Abu Garda* case were automatically allowed to participate in the *Banda and Jerbo* case at the pre-trial stage.<sup>29</sup>

16. Additionally, Counsel stress that adopting such an approach would be in line with the recent recommendation in the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System, where the experts suggested that “[v]ictims admitted to participate in proceedings should be automatically admitted to participate in any other case opened within the same situation for the same events”.<sup>30</sup>

**B. Recognising the status of victims at this juncture would promote the efficiency of the proceedings**

17. Counsel submit further that recognising the status of victims in the present case to the individuals admitted in the *Ongwen* case would enhance the efficiency of the

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<sup>26</sup> See the “Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-02/11-83](#), 11 June 2014, para. 15.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Idem*, para. 17.

<sup>29</sup> See the “Decision on Victim’s Participation at the Hearing on the Confirmation of the charges” (Pre-Trial Chamber I), [No. ICC-02/05-03/09-89](#), 29 October 2010, paras. 6-10.

<sup>30</sup> See the [Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report](#), 30 September 2020, recommendation R338.

proceedings and greatly advance their interests while preserving their security and well-being. Indeed, the victims who had already been admitted to participate in the *Ongwen* case continue to satisfy the criteria of rule 85 of the Rules of Procedure and Evidence and meet all the requirements to be directly admitted to participate in the present case by virtue of the same geographical/temporal scope of the two cases.

18. In line with the practice adopted in the *Blé Goudé* case,<sup>31</sup> this approach would make it unnecessary to require each victim (totalling 4,095 from the *Ongwen* case) to fill, for the purpose of the present case, a second application form. This will prevent from unnecessarily obligating the victims to tell their stories over and over again and narrating, in detail, the same event(s) and harm(s) they suffered in relation to the same crimes, thus minimising the risk of re-traumatisation and re-victimisation. Moreover, this will also relieve the Chamber – and the Registry – of the burden of reassessing applications for the same event(s) and crime(s), thereby significantly contributing to the efficient conduct of the proceedings.

19. Counsel further note that Chambers also enjoy discretion in considering the applications in such a manner as to ensure the effectiveness of the proceedings and in striking a balance between the expeditiousness and fairness of the proceedings, while taking into consideration the particular circumstances of each case.<sup>32</sup>

20. Moreover, during preliminary consultations with victims about the possibility to hold a confirmation of charges hearing *in absentia* and after the issuance of the Chamber's decision to hold said hearing, a significant number of victims who are participating in the *Ongwen* case have expressed their interest in participating in the

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<sup>31</sup> See the Decision on victims' participation in the pre-trial proceedings and related issues, *supra* note 26, para. 19.

<sup>32</sup> See, *inter alia*, the "Decision establishing the principles applicable to victims' and representation during the Confirmation Hearing" (Pre-Trial Chamber II, Single Judge), [No. ICC-02/05-01/20-259](#), 18 January 2021, para. 26; the "Decision Establishing the Principles Applicable to Victims' Applications for Participation" (Pre-Trial Chamber II), [No. ICC-01/14-01/18-141](#), 5 March 2019, para. 42 and 45; and the "Decision on victims' participation in trial proceedings" (Trial Chamber VI), [No. ICC-01/04-02/06-449](#), 6 February 2015, para. 37.

present case. This was often conveyed during the regular meetings between Counsel and/or members of their teams based in Uganda and their clients. Many victims have also directly contacted the members of Counsel's teams based in Uganda to express their willingness to participate in the present proceedings.

21. In light of the above and in the best interests of the victims, and in order to avoid overburdening the judicial process at hand, Counsel further suggest the adoption of a flexible approach where the consent to participate in the current proceedings of the victims previously admitted in the *Ongwen* case is presumed, in the absence of a clear indication of their intention not to participate in the present case. If necessary, such intention may be verified by Counsel during the regular meetings with clients and eventually communicated to the Registry which, in turn, will inform the Chamber.

C. *Other matters relevant to the interests of the victims in the present case*

22. Counsel take this opportunity to address few issues in relation to the process for the participation of victims in the present case. Concerning the application form, they ask the Chamber to adopt the same application form designed for the *Ongwen* case. Indeed, intermediaries and victims in Uganda are already familiar with said form and, considering the potential high number of applicants in the present case and the limited time before the start of the confirmation of charges hearing, Counsel posit that this course of action is the most efficient.

23. In this regard, Counsel recall the need for "*the forms for participation and reparations [...] be standardized to a certain extent*"<sup>33</sup> and "*to improve the victims' participation system in order to ensure 'its sustainability, effectiveness and efficiency' [...], including by developing application forms for victims' participation tailored to the*

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<sup>33</sup> See the "Decision Establishing the Principles Applicable to Victims' Applications for Participation" (Pre-Trial Chamber II), [No. ICC-01/12-01/18-37-tENG](#), 24 May 2018, para. 19.

*characteristics of the specific case at hand*".<sup>34</sup> Once more, the fact that the parameters of the present case are the same to the ones of the *Ongwen* case further militates for the adoption of the same approach to victims' participation.

24. Counsel also request the Chamber to adopt the so called "A-B-C approach" for the procedure for admission of victims to participate in the proceedings as in the recent cases before the Court and as described in the Chambers Practice Manual.<sup>35</sup>

25. In this regard, Counsel inform the Chamber that they are in possession of 1,176 applications forms completed between 2006 and 2014, and transmitted to the Office by the Registry throughout the years in accordance with the former Chamber's decision to appoint the OPCV as legal representative of applicants in the Situation in Uganda. Counsel have assessed said forms and estimate that at least 50% may qualify for the present case. However, for some applicants, additional information may be needed. In this regard, Counsel have already re-established contact with focal points who may be able to trace the victims and they will endeavour to complete the applications concerned. Nonetheless, Counsel posit that the task will be arduous in light of the time that has elapsed between the completion of said forms and the re-activation of the proceedings against Mr Kony. Counsel further inform the Chamber that they will liaise with the VPRS in the near future to discuss how to proceed for the transmission of the relevant data.

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<sup>34</sup> See the "Decision Establishing Principles on the Victims' Application Process" (Pre-Trial Chamber II, Single Judge), [No. ICC-01/04-02/06-67](#), 28 May 2013, para. 17 (footnotes omitted).

<sup>35</sup> See the [Chambers Practice Manual](#), 7<sup>th</sup> edition, 2023, paras. 96-97.

**FOR THE FOREGOING REASONS**, Counsel respectfully request the Pre-Trial Chamber:

- To recognise the status of victims in the present case to all victims admitted to participate in the *Ongwen* case; and
- To adopt the *Ongwen* application form and the 'A-B-C' procedure for admission of victims to participate in the present proceedings .



**Paolina Massidda**



**Sarah Pellet**

Dated this 11<sup>th</sup> day of March 2024

At The Hague, The Netherlands