



**Original: English**

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

**Date: 8 December 2022**

**PRE-TRIAL CHAMBER II**

**Before:**

**Judge Rosario Salvatore Aitala, Presiding  
Judge Antoine Kesia-Mbe Mindua  
Judge Tomoko Akane**

**SITUATION IN UGANDA**

**IN THE CASE OF**

***THE PROSECUTOR v. JOSEPH KONY AND VINCENT OTTI***

**Public**

Decision regarding the ‘OPCD Request for Leave to Appear on Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence’

**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

**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

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

Mr Xavier-Jean Keïta

**States Representatives**

*Amicus Curiae*

**REGISTRY**

---

**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**PRE-TRIAL CHAMBER II** of the International Criminal Court issues this Decision regarding the ‘OPCD Request for Leave to Appear on Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence’.

1. On 8 July 2005, the Chamber (in a previous composition) issued the ‘Warrant of Arrest for Joseph Kony’,<sup>1</sup> which was amended on 27 September 2005.<sup>2</sup>
2. On 24 November 2022, the Prosecution requested the Chamber to hold a hearing on the confirmation of charges against Joseph Kony in his absence (the ‘Prosecution’s Request’).<sup>3</sup>
3. On 2 December 2022, the Chamber found that it was not necessary to consider a request by the Office of Public Counsel for Victims for an extension of time to file a response to the Prosecution’s Request, and that an order on the conduct of the proceedings related to the Prosecution’s Request will be issued in due course.<sup>4</sup>
4. Notwithstanding the aforementioned decision, the Office of the Public Counsel for the Defence (the ‘OPCD’) requested leave to appear before the Chamber in relation to the Prosecution’s Request on the same day (the ‘OPCD Request’).<sup>5</sup>
5. Considering that an order on the conduct of the proceedings is forthcoming, the Chamber finds that is not necessary to address the OPCD Request at present. However, the Chamber notes that the OPCD seeks leave to provide submissions in connection with the Prosecution’s Request and, at the same time, includes the substance of the proposed submissions. In the view of the Chamber, this defeats the purpose of a request for leave to file submissions. The proposed submissions may only be developed if and

---

<sup>1</sup> ICC-02/04-01/05-2-US-Exp, under seal and *ex parte*, only available to the Prosecution (the warrant was unsealed on 13 October 2005, see [Decision on the Prosecutor's Application for Unsealing of the Warrants of Arrest](#), ICC-02/04-01/05-52, public).

<sup>2</sup> Warrant of Arrest for Joseph Kony Issued on 8 July 2005 as Amended on 27 September 2005, ICC-02/04-01/05-28-US-Exp, under seal and *ex parte*, only available to the Prosecution (a public redacted version was issued on 13 October 2005, [ICC-02/04-01/05-53](#)).

<sup>3</sup> Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence, ICC-02/04-01/05-446-Conf-Exp, confidential and *ex parte*, only available to the Prosecution (a public redacted version was issued on the same day, [ICC-02/04-01/05-446-Red](#)).

<sup>4</sup> [Decision regarding the ‘Legal Representatives’ Joint Request for an Extension of Time to Respond to the “Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence”](#), ICC-02/04-01/05-449, public.

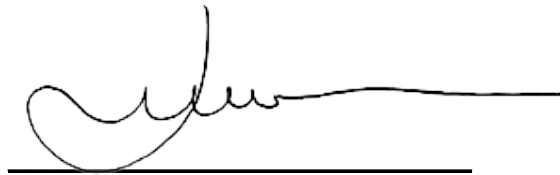
<sup>5</sup> [OPCD Request for Leave to Appear on Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence](#), ICC-02/04-01/05-450, public.

when leave to do so is granted by the Chamber. Accordingly, the Chamber reminds the OPCD that, going forward, a request for leave to file submissions shall not include the substance of the proposed submissions.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**FINDS** that the OPCD Request need not be considered at present.

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



**Judge Rosario Salvatore Aitala**

**Presiding**



**Judge Antoine Kesia-Mbe Mindua**



**Judge Tomoko Akane**

Dated this Thursday, 8 December 2022

At The Hague, The Netherlands