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No.: ICC-02/04-01/05
Date: 13 December 2022

PRE-TRIAL CHAMBER II

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

SITUATION IN UGANDA

IN THE CASE OF *THE PROSECUTOR vs. JOSEPH KONY AND VINCENT OTTI*

Public

Public Redacted Version of “Communication of further information received from the Government of Uganda about the death of Vincent Otti (ICC-02/04-02/05-444 dated 23 May 2022)”

Source: Office of the Prosecutor

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

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1. On 28 March 2022 the Office of the Prosecutor (“the Prosecution”) submitted to the Chamber a renewed request to terminate proceedings against Vincent Otti on account of his death, pursuant to article 58(4) of the Rome Statute (“Statute”).¹ The Prosecution has since received additional information regarding the circumstances of Mr Otti’s death from the Government of Uganda, which it hereby communicates to the Chamber. The information consists of statements of four individuals, taken by the Ugandan authorities in March 2022.

Classification

2. In accordance with regulation 23bis(2) of the Regulations of the Court, this request is classified as under seal, *ex parte* available to the Prosecution and Registry only, because it supplements two previous filings with the same classification, namely filing ICC-02/04-01/05-443-US-Exp of 28 March 2022 and filing ICC-02/04-01/05-315-US-Exp of 7 October 2008. [REDACTED].

3. Similarly to the request regarding the classification of the earlier two filings,² the Prosecution submits that the present filing can also be reclassified as confidential *ex parte*, available to the Prosecution and Registry only. The justification for under seal classification has been superseded by subsequent events, whereas the need for confidentiality remains on account of witnesses referenced. The Prosecution is ready to file a public redacted version in due course.

Submissions

4. As the Prosecution has previously informed the Chamber,³ it had requested additional information from the Government of Uganda about the circumstances of Mr Otti’s death, but did not receive any response by the time of submitting its Renewed Request on 28 March 2022.

¹ ICC-02/04-01/05-443-US-Exp («Renewed Request»).

² ICC-02/04-01/05-443-US-Exp, para. 4.

³ ICC-02/04-01/05-443-US-Exp, fn. 55.

5. On 11 May 2022 the Government of Uganda sent to the Prosecution a letter and statements of four individuals interviewed by the Ugandan authorities in March 2022. The Ugandan Government noted that the statements “are to the effect that Mr. Otti was executed on 2nd October 2007 on the orders of Mr. Kony. None of the persons participated in, or was an eye witness to the execution, but they cite accounts by persons that ostensibly were very close to Mr. Kony at the time; or persons that reportedly participated in the execution.”⁴

6. All four statements transmitted by the Ugandan authorities are relevant for the Chamber’s determination and are summarised below. The statements are either signed by the interviewed individual or contain their fingerprint (where the interviewee was unable to sign). They also contain the signature of the recording officer. The four statements are consistent with the accounts of witnesses relied upon by the Prosecution in the two previous filings, namely P-0162, P-0163, P-0164, P-0165, P-0205, P-0231, P-0233, P-0264, D-0028 and D-0075. Specifically, they corroborate the time and location of Mr Otti’s death, names of persons killed with Mr. Otti, manner of execution, the aftermath of the killing (e.g. distribution of Otti’s wives to other commanders, Kony confirming that Otti is dead) and reasons for his killing.

Statement of [REDACTED] (UGA-OTP-0287-0411, Annex B)

7. [REDACTED] was abducted into the LRA in September 1995, aged 13 years old. In February 2003 he was promoted [REDACTED].⁵ He described how the relationship between Joseph Kony and Vincent Otti began to deteriorate in 2006 and stated that by June 2007 the relationship between the two “became sour”.⁶ [REDACTED] stated that on 30 September 2007, Kony called Otti for a meeting to be held on 2 October 2007.⁷ When they arrived at Kony’s camp at Eskimo, they were informed that Otti was needed in Kony’s quarters. [REDACTED]. After about 30 minutes [REDACTED] and

⁴ UGA-OTP-0287-0409 at 0409 (Annex A).

⁵ UGA-OTP-0287-0411 at 0411 (Annex B).

⁶ UGA-OTP-0287-0411 at 0412-0413 (Annex B).

⁷ UGA-OTP-0287-0411 at 0414 (Annex B).

others heard “several rounds of machine gun bullets firing”.⁸ [REDACTED] realised Otti had been killed at this point. After about 15 minutes [REDACTED]. [REDACTED].⁹ Later on, Kony’s chief bodyguard told [REDACTED] that Otti was arrested immediately upon arriving to Kony’s place. He was tied and led about 500m away where he was executed together with Ben Achellam and Otim Record.¹⁰ Otti’s wives were distributed to other commanders, which confirmed to [REDACTED] that Otti had indeed been killed. [REDACTED].¹¹

Statement of [REDACTED] (UGA-OTP-0287-0417, Annex C)

8. [REDACTED] was abducted into the LRA around October 1991, aged about 12 years old. She was assigned to Kony’s household [REDACTED].¹² [REDACTED] described a meeting in which Kony conveyed to her and other close family members that Otti was on the Ugandan Government’s side and wanted to kill him. He however told [REDACTED] that he will kill Otti first.¹³ [REDACTED] also described discussions between Kony and some of his senior commanders about the danger Otti was posing and “that they resolved that Vincent Otti be killed”.¹⁴ [REDACTED] stated that around September 2007 Kony summoned his commanders to his base at Eskimo and that Otti, Ben Achellam, Otim and Adjumani were arrested. Kony sent [REDACTED].¹⁵ However, [REDACTED] stated that she was “reliably informed” that Kony ordered Agweng, Buk Abudema and Okot Odhiambo to take away “those of Otti Vincent and that they should be killed”.¹⁶ [REDACTED]. [REDACTED] Kony’s bodyguards that have participated in the execution told her that they had shot and killed Vincent Otti and some of his close confidants.¹⁷ The same evening Kony [REDACTED] told them that “Kony Otti was no more”. He also “promised them serious consequences” if they

⁸ UGA-OTP-0287-0411 at 0415 (Annex B).

⁹ UGA-OTP-0287-0411 at 0415 (Annex B).

¹⁰ UGA-OTP-0287-0411 at 0415 (Annex B).

¹¹ UGA-OTP-0287-0411 at 0416 (Annex B).

¹² UGA-OTP-0287-0417 at 0417 (Annex C).

¹³ UGA-OTP-0287-0417 at 0418-0419 (Annex C).

¹⁴ UGA-OTP-0287-0417 at 0420 (Annex C).

¹⁵ UGA-OTP-0287-0417 at 0420-0421 (Annex C).

¹⁶ UGA-OTP-0287-0417 at 0421 (Annex C).

¹⁷ UGA-OTP-0287-0417 at 0421 (Annex C).

were to talk about Otti's death.¹⁸ [REDACTED] also stated that Otti's women were distributed to other commanders and Kony himself took three of Otti's "wives".¹⁹

9. [REDACTED].²⁰ [REDACTED].²¹

Statement of [REDACTED] (UGA-OTP-0287-0424, Annex D)

10. [REDACTED].²² She stated that after June 2007 she learnt through Ongwen that the relationship between Kony and Otti "was not good".²³ Around August 2007 Ongwen told her that Otti will be killed in 2 days.²⁴ In September 2007 Ongwen went to see Kony and when he returned he told [REDACTED] to move family members away. Whilst [REDACTED] was preparing with other family members to leave, she saw Vincent Otti tied up and being taken away.²⁵ [REDACTED] 10 minutes later heard several gunshots from the direction in which Otti and three others were taken.²⁶ She stated that Ongwen returned home but did not speak to her. The next day she saw "violent actions in the camp", such as Otti's bodyguard being shot dead.²⁷ Ongwen told [REDACTED] that Otti was killed.²⁸

11. [REDACTED].²⁹ [REDACTED].³⁰

Statement of [REDACTED] (UGA-OTP-0287-0429, Annex E)

12. [REDACTED].³¹ He stated that the relationship between Kony and Otti began to deteriorate in 2006.³² He described that Kony had called a meeting of commanders

¹⁸ UGA-OTP-0287-0417 at 0422 (Annex C).

¹⁹ UGA-OTP-0287-0417 at 0422 (Annex C).

²⁰ [REDACTED].

²¹ [REDACTED].

²² UGA-OTP-0287-0424 at 0424 (Annex D).

²³ UGA-OTP-0287-0424 at 0425 (Annex D).

²⁴ UGA-OTP-0287-0424 at 0426 (Annex D).

²⁵ UGA-OTP-0287-0424 at 0426-0427 (Annex D).

²⁶ UGA-OTP-0287-0424 at 0427 (Annex D).

²⁷ UGA-OTP-0287-0424 at 0427 (Annex D).

²⁸ UGA-OTP-0287-0424 at 0427-0428 (Annex D).

²⁹ [REDACTED].

³⁰ [REDACTED].

³¹ UGA-OTP-0287-0429 at 0429 (Annex E). *See also* [REDACTED].

³² UGA-OTP-0287-0429 at 0430 (Annex E).

for 2 October 2007. [REDACTED] stayed behind and did not attend.³³ [REDACTED] Kony was not present and left orders with Buk Abudema to arrest Otti, Ben Achellam and Otim Record. Kony then telephoned in the order to execute them.³⁴ On 2 October 2007 at approximately 9 am [REDACTED] heard gunshots from the direction of the Eskimo camp.³⁵ A few hours after the gunshots soldiers came to Boo Camp and ransacked the houses of Otti, Otim Record and Ben Achellam, “a tradition of the LRA once a commander had been executed”.³⁶ [REDACTED].³⁷

13. [REDACTED].³⁸ [REDACTED].

Conclusion

14. The Prosecution communicates the above information received from the Ugandan Government in relation to the circumstances of Mr Otti’s death as relevant for the Chamber’s determination of the Prosecution’s Renewed Request. The Prosecution invites the Chamber to rely on this information in addition to the evidence outlined in the Prosecution’s filings of 7 October 2008 and 28 March 2022 to find that Mr Otti is deceased.

Relief Sought

15. On the basis of the information above, and information submitted to the Chamber on 7 October 2008 and 28 March 2022, the Prosecution requests that the Chamber terminate the proceedings against Vincent Otti on account of his death, in accordance with article 58(4) of the Statute.



Karim A.A. Khan KC, Prosecutor

Dated this 13th day of December, 2022
At The Hague, The Netherlands

³³ UGA-OTP-0287-0429 at 0431 (Annex E).

³⁴ UGA-OTP-0287-0429 at 0431-0432 (Annex E).

³⁵ UGA-OTP-0287-0429 at 0432 (Annex E).

³⁶ UGA-OTP-0287-0429 at 0432 (Annex E).

³⁷ UGA-OTP-0287-0429 at 0432 (Annex E).

³⁸ [REDACTED].