



Original: **English**

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

Date: 24 April 2024

**PRE-TRIAL CHAMBER II**

**Before: Judge Althea Violet Alexis-Windsor, Single Judge**

**SITUATION IN UGANDA**

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

**Public**

**Prosecution's response to the OPCD's and ICCBA's observations on the process of selecting counsel to represent the rights and interests of Joseph Kony during *in absentia* confirmation proceedings**

**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**

Karim A.A. Khan KC  
 Mame Mandiaye Niang  
 Leonie von Braun

**Counsel for Defence****Legal Representatives of the Victims****Legal Representatives of the Applicants****Unrepresented Victims****Unrepresented Applicants for  
Participation/Reparation****The Office of Public Counsel for  
Victims**

Paolina Massidda  
 Sarah Pellet

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

Marie O'Leary

**States' Representatives****Amicus Curiae****REGISTRY**

---

**Registrar**

Oswaldo Zavala Giler

**Counsel Support Section**

Juan Escudero

**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations  
Section****Other**

ICC Bar Association

## I. INTRODUCTION

1. In response to the observations of the Office of Public Counsel for the Defence (“OPCD”)<sup>1</sup> and the International Criminal Court Bar Association (“ICCBA”)<sup>2</sup> on the proposed process for the selection of counsel to represent Joseph Kony’s (“Mr Kony”) rights and interests (“Registry’s proposed process”),<sup>3</sup> the Prosecution respectfully refers to its previously filed observations.<sup>4</sup>

2. Should the Single Judge be minded to adopt the Registry’s proposed process, the Prosecution respectfully submits that the process could and *should* be completable within a shorter timeframe, at the latest within three weeks, to avoid any further delay.

## II. SUBMISSIONS

3. Even an expedited process would ensure that competent counsel is identified to represent the rights and interests of Mr Kony. Across social media, the Court has almost one million followers, which includes the core constituents of counsel from whom the Registry is interested in obtaining expressions of interest to provide legal representation to Mr Kony. The Registry currently has the contact information of around 900 Counsel contained in its List of Counsel and can transmit the expressions of interest directly to Counsel. Also, the Registry, if it chooses, in addition to the Bar Associations indicated by the ICCBA,<sup>5</sup> can communicate its call for expressions of interest to other regional Bar Associations to ensure its widest dissemination in a short period of time. The process of selection among prospective counsel who have declared their interest can then also be further streamlined, for example, by including preset screening questions in the call for expressions of interest.

4. OPCD’s request to the Pre-trial Chamber to vacate the commencement date of the confirmation hearing set for 15 October 2024 and to set a date only after hearing

---

<sup>1</sup> ICC-02/04-01/05-497 (“OPCD’s submissions”).

<sup>2</sup> ICC-02/04-01/05-496 (“ICCBA’s observations”).

<sup>3</sup> ICC-02/04-01/05-488, paras. 19-20.

<sup>4</sup> ICC-02/04-01/05-489.

<sup>5</sup> ICCBA’s observations, para. 5.

arguments from Mr Kony's appointed counsel should be dismissed.<sup>6</sup> The notification of the hearing date is an element of article 61(2)(b) of the Statute<sup>7</sup> and the necessary outreach activities for this specific date have only just been concluded by the Registry.

5. Should counsel be appointed in the near future, counsel would still have sufficient time to prepare. The Prosecution will rely on *approximately* 6,178 items of evidence amounting to around 64,954 pages to establish its case against Mr Kony. These items will be disclosed to Mr Kony's Defence with disclosure notes, which will identify any potentially exonerating information contained in disclosed items under the overall legal classification of incriminatory. In addition, the Prosecution has reviewed and packaged its material under specific disclosure themes, which together will assist Mr Kony's Defence to synthesise the evidence in order to have a complete understanding of the Prosecution's case. The Prosecution can complete its disclosure of the evidence on or before 6 June 2024.<sup>8</sup> OPCD's request to vacate the confirmation hearing date partly due to the volume of the evidence<sup>9</sup> is therefore premature and should be rejected.

## II. CONCLUSION AND RELIEF SOUGHT

6. For the reasons set out above, the Registry's proposed process should at minimum be expedited and completed within three weeks at the latest.

7. Furthermore, the OPCD's request to vacate the confirmation hearing date should be dismissed.



---

**Karim A.A. Khan KC, Prosecutor**

Dated this 24<sup>th</sup> April 2024  
At The Hague, The Netherlands

---

<sup>6</sup> OPCD's submissions, para. 16.

<sup>7</sup> ICC-02/04-01/05-481, p. 11.

<sup>8</sup> ICC-02/04-01/05-490-AnxA.

<sup>9</sup> OPCD's submissions, paras. 11-12, 15-16.