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PRE-TRIAL CHAMBER III

Before: Judge Althea Violet Alexis-Windsor, Single Judge

SITUATION IN THE REPUBLIC OF UGANDA

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

Public

With Public Annexes I and II and

Confidential EX PARTE Annex III, only available to the Registry

Registry submissions on matters related to the participation of victims

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I. Introduction

1. Following the instruction of the Single Judge of Pre-Trial Chamber III (“Request”, “Single Judge” and “Chamber”, respectively)¹ in the case of *The Prosecutor v. Joseph Kony* (“Kony case” or “Case”)², the Registry hereby presents its submissions on issues related to the participation of victims and respectfully requests the Chamber to:

- i) allow victims admitted to participate during the trial phase of the case of *The Prosecutor v. Dominic Ongwen* (“Ongwen case”) to participate at the confirmation of charges proceedings of the *Kony* case provided this is their explicit desire (see paras 12-15);
- ii) adopt the so-called ‘ABC’ admission process for the admission of victims’ applications in the present proceedings (“ABC Process”³) (see paras 16-19);
- iii) adopt the Registry’s present standard victim application form⁴ for individuals (Annex I) and for organisations (Annex II) pursuant to Rule 85 of the Rules of Procedure and Evidence (“Rules”) (see para. 20); and to

¹ Email from Single Judge of Pre-Trial Chamber III to the Registry on 23 April 2024 at 16:52.

² The Registry notes that the *Kony* case was initially the *Kony et al.* case. However, on 6 February 2015, the case against Dominic Ongwen was severed from the *Kony et al.* case following his voluntary surrender. See Pre-Trial Chamber II, “Decision Severing the Case Against Dominic Ongwen”, 6 February 2015, ICC-02/04-01/05-424. Additionally, on 11 July 2007, 10 September 2015 and 17 November 2023, Pre-Trial Chamber II terminated the proceedings against Raska Lukwiya, Okot Odhiambo and Vincent Otti respectively, after their deaths were confirmed. See Pre-Trial Chamber II, “Decision terminating proceedings against Raska Lukwiya”, dated 11 July 2007 and transmitted on 12 July 2007; “Decision terminating proceedings against Okot Odhiambo”, 10 September 2015, ICC-02/04-01/05-431 and “Decision terminating proceedings against Vincent Otti”, 17 September 2023, ICC-02/04-01/05-465.

³ See Chambers Practice Manual, seventh edition of 2023 (“Chambers Practice Manual”), Section V. A., “Procedure for admission of victims to participate in the proceedings”, at para. 96(iv), at: [230707-chambers-manual-eng.pdf \(icc-cpi.int\)](https://www.icc-cpi.int/chambers-manual-eng.pdf) (accessed on 19 April 2024).

⁴ The standard form, used across all cases presently at trial at the Court, combines the information required for participation and/or for requesting reparations in one single document. It is referenced in the Chambers Practice Manual, para. 96(i). See also the endorsement of the form in the IER Report of 30 September 2020, at paras. 66, 901-902 and Recommendation 345.

iv) accept the same type of identity documents as those accepted in the Situation in the Republic of Uganda and the *Ongwen* case (see paras 21-24); a number of samples is provided in Annex III.

Finally, the Registry respectfully suggests providing a brief report to the Chamber with information on victims' views as to their legal representation, along with potential recommendations for the Chamber's consideration (see paras 25-26).

II. Procedural History

2. On 8 July 2005, Pre-Trial Chamber II, in its previous composition ("Pre-Trial Chamber II"), issued the warrant of arrest against Mr Kony.⁵ The arrest warrant was amended on 27 September 2005 ("Arrest Warrant") and unsealed in October 2005, with the issuance of a public redacted version.⁶
3. Between 22 August 2006 and 15 February 2013, 128 applications for participation were transmitted in the Case.⁷

⁵ Pre-Trial Chamber II, "Warrant of Arrest for Joseph Kony", 8 July 2005, ICC-02/04-01/05-2-US-Exp.

⁶ Pre-Trial Chamber II, "Public redacted version of 'Warrant of Arrest for Joseph Kony Issued on 8 July 2005 as Amended on 27 September 2005', dated 27 September 2005", 13 October 2005, ICC-02/04-01/05-53. A lesser redacted version was notified on 10 March 2023, ICC-02/04-01/05-456.

⁷ The following transmissions consist solely of the original versions of victim applications submitted to the Chamber: Registry, "Application for participation in proceedings number a/0010/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-98-Conf-Exp; "Application for participation in proceedings number a/0064/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-99-Conf-Exp; "Application for participation in proceedings number a/0065/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-100-Conf-Exp; "Application for participation in proceedings number a/0066/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-101-Conf-Exp; "Application for participation in proceedings number a/0067/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-102-Conf-Exp; "Application for participation in proceedings number a/0068/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-103-Conf-Exp; "Application for participation in proceedings number a/0069/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-104-Conf-Exp; "Application for participation in proceedings number a/0070/06", dated 21 August 2006 and registered on 22 August 2006, ICC-02/04-01/05-105-Conf-Exp; "Report to Pre-Trial Chamber II on applications a/0081/06 to a/0104/06 in accordance with Rule 89 paragraph 1 of the RPE, and Regulation 86 paragraph 5 of the Regulations of the Court", 26 October 2006, ICC-02/04-01/05-123; "Report to Pre-Trial Chamber II on applications a/0111/06 to a/0127/06 in accordance with Rule 89 paragraph 1 of the RPE, and Regulation 86 paragraph 5 of the Regulations of the Court", dated 16 November 2006 and registered on 17 November 2006, ICC-02/04-01/05-128; "Report to Pre-Trial Chamber II on applications a/0014/07 to a/0020/07 in accordance with Rule 89 paragraph 1 of the Rules

4. Between 10 August 2007 and 10 March 2009, Pre-Trial Chamber II issued four decisions on the merits of these applications in the Case.⁸ From these applications, 41 individuals were accepted to participate at the time⁹ and are presently represented by the Office of the Public Counsel for Victims (“OPCV”), 16 were rejected, 41 were deferred¹⁰ and 30 have not yet been decided upon.
5. On 23 November 2023, following a Prosecution request to hold a hearing on the confirmation of charges against Mr Kony in his absence,¹¹ Pre-trial Chamber II found that there is cause to hold such a confirmation of charges hearing.¹² The

of Procedure and Evidence, and Regulation 86 paragraph 5 of the Regulations of the Court”, dated 11 April 2007 and registered on 13 April 2007, ICC-02/04-01/05-241; “Transmission of consolidated applications including supplementary information”, 29 February 2012, ICC-02/04-01/05-411; “Transmission of consolidated applications including supplementary information”, 29 June 2012, ICC-02/04-01/05-412; and “Transmission of consolidated applications including supplementary information”, 15 February 2013, ICC-02/04-01/05-413. Additionally, 22 applications were transmitted in the Situation in the Republic of Uganda for the *Kony* case. See Registry, “Report to Pre-Trial Chamber II on applications a/0192/07 to a/0239/07 and a/0324/07 to a/0326/07 in accordance with Rule 89 paragraph 1 of the Rules of Procedures and Evidence, and Regulation 86 paragraph 5 of the Regulations of the Court”, 30 May 2008, ICC-02/04-138-Conf-Exp; and “Second Report to Pre Trial Chamber II on applications a/0192/07 to a/0239/07 and a/0324/07 to a/0326/07 in accordance with Rule 89 paragraph 1 of the Rules of Procedure and Evidence and Regulation 86 paragraph 5 of the Regulations of the Court”, dated 30 September 2008 and registered on 1 October 2008, ICC-02/04-157-Conf-Exp.

⁸ See Pre-Trial Chamber II, “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”, dated 10 August 2007 and registered on 13 August 2007, ICC-02/04-01/05-252; “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”, dated 14 March 2008 and registered 17 March 2008, ICC-02/04-01/05-282; “Decision on victims’ applications for participation a/0014/07 to a/0020/07 and a/0076/07 to a/0125/07”, 21 November 2008, ICC-02/04-01/05-356; and “Decision on victims’ applications for participation a/0192/07 to a/0194/07, a/0196/07, a/0200/07, a/0204/07, a/0206/07, a/0209/07, a/0212/07, a/0216/07, a/0217/07, a/0219/07 to a/0221/07, a/02228/07 to a/0230/07, a/0234/07, a/0235/07, a/0237/07, a/0324/07 and a/0326/07 under rule 89”, 10 March 2009, ICC-02/04-01/05-375.

⁹ The Pre-Trial Chamber II’s decisions on legal representation were issued in the *Kony et al* proceedings.

¹⁰ The applications that were deferred and later accepted following transmission of supplementary information are counted in the total of applications accepted, and thus not counted in the total of applications deferred.

¹¹ Prosecution, “Public Redacted Version of the ‘Prosecution’s Request to Hold a Hearing on the Confirmation of Charges against Joseph Kony in his Absence’”, 24 November 2022, ICC-02/04-01/05-446-Red.

¹² Pre-trial Chamber II, “Decision on the Prosecution’s request to hold a confirmation of charges hearing in the *Kony* case in the suspect’s absence”, 23 November 2023, ICC-02/04-01/05-466.

hearing, to be held in Mr Kony's absence should he not appear, is scheduled for 15 October 2024.¹³

6. On 19 January 2024, the Prosecution filed the "Document Containing the Charges" ("DCC").¹⁴
7. On 11 March 2024, the OPCV submitted a request to (1) recognise the status of victims in the *Kony* case to all victims admitted to participate in the *Ongwen* case adopting an approach where the consent of the victims admitted to participate in the *Ongwen* case is presumed; (2) adopt the *Ongwen* participation form; and (3) adopt the ABC approach for admission of victims to participate in the Case ("OPCV Request").¹⁵
8. On 12 March 2024, the Presidency of the Court referred the Case to Pre-Trial Chamber III and recomposed the latter.¹⁶

III. Classification

9. Pursuant to regulation 23bis(1) of the Regulations of the Court ("RoC"), Annex III is classified confidential *ex parte* only available to the Registry as it contains information which may lead to the identification of victims before the Court and their whereabouts.

IV. Applicable Law

10. The Registry submits the present filing in accordance with the Chamber's instruction¹⁷, article 68(1) and (3) of the Rome Statute ("Statute"), rules 16(1), 85, 89

¹³ Pre-Trial Chamber II, "Second decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence", 4 March 2024, ICC-02/04-01/05-481, para. 13

¹⁴ Prosecution, "Document Containing the Charges", 19 January 2024, ICC-02/04-01/05-474.

¹⁵ OPCV, "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", 11 March 2024, ICC-02/04-01/05-483.

¹⁶ Presidency, "Decision assigning judges to divisions and recomposing Chambers", 12 March 2024, ICC-02/04-01/05-485; and on 15 March 2024, Pre-Trial Chamber III designated Judge Althea Violet Alexis-Windsor as Single Judge in the Case. See "Decision on the designation of a Single Judge", 15 March 2024, ICC-02/04-01/05-487.

¹⁷ See para. 1, *supra*.

and 90 of the Rules, regulation 86 of the RoC, and regulations 106 to 109 of the Regulations of the Registry.

V. Submissions

11. In the following submissions, the Registry will provide observations on (A) the OPCV Request; (B) means of identification, and (C) collection of victims' views as to their legal representation.

A. Registry observations on the OPCV Request

a. Recognising victim status for participants of the *Ongwen* Case

Overlapping charges

12. The Registry largely concurs with the analysis provided in the OPCV Request with regard to 'overlapping of the crimes and events' in the *Ongwen* and the *Kony* cases.¹⁸ The Registry therefore submits that the 4,096 victims previously admitted to participate during the trial phase of the *Ongwen* case ("Participating Victims in the *Ongwen* case") are eligible to participate in the confirmation of charges proceedings in the *Kony* case, once they have confirmed, directly or through their legal representative, their wish to participate in the present Case.

Victims' wish to participate in the Kony proceedings

¹⁸ See OPCV Request, paras. 9-12. The Registry agrees with the OPCV that the crimes and events described in the DCC overlap or encompass those contained in the Trial Judgement for Dominic Ongwen (See the "Trial Judgment", ICC-02/04-01/15-1762-Red, 4 February 2021) and that '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' (OPCV Request, para 12). The Registry further considers that the "Prosecution Response to Victims' Concerns on the Document Containing the Charges" (ICC-02/04-01/05-482) clarifies that the Prosecution's charging approach in relation to the charge of enslavement as a crime against humanity in lieu of sexual slavery as a crime against humanity broadens the scope of the Kony case. This further confirms that the scope of DCC encompasses the scope of Ongwen case confirmed at Trial and in the "Reparations Order". See the "Reparations Order" ICC-02/04-01/15-2074, 28 February 2024.

13. On 20 March 2024, the Registry was informed by the team of legal representatives of victims in the *Ongwen* case, Messrs Manoba and Cox, that 2,038 participating victims in the *Ongwen* case had expressed their interest to said counsel to participate in the confirmation proceedings against Joseph Kony before the ICC.¹⁹ In the OPCV Request, OPCV Counsel 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”.²⁰ The Registry considers that ideally, explicit victims’ consent should be obtained prior to the submission of their applications for the Chamber’s authorisation to participate. However, the Registry also sees the brief remaining time towards the confirmation hearing and difficulties to reach some victims/communities for a variety of reasons. In this light, the Registry supports the OPCV suggestion of a flexible approach and at the same time stands ready to assist the OPCV in the victim consultation process to ensure the speedy collection of victims’ explicit consent in the meantime.

Deceased participating victims in the Ongwen case

14. 103 of the 4,096 participating victims in the *Ongwen* case are deceased and their applications have been complemented with resumption of action requests by relevant family members. Applications on behalf of deceased victims have been accepted in the *Ongwen* case only if their death occurred after being accepted as participating victims in the proceedings and under the condition that the person seeking to resume the action of the deceased participating victim provides a

¹⁹ Email from Me Manoba and Me Cox to Registry on 20 March 2024 at 20:24. The counsel informed the Registry that they met with victims from the locations of Abok, Odek and Lukodi in January 2024 during a field mission.

²⁰ OPCV Request, para. 21.

resumption of action application deemed complete by the Chamber.²¹ The Registry also recalls jurisprudence by various Chambers at the ICC²² that although a deceased person cannot present his or her “views and concerns” in the proceedings, there is no impediment that the rights of the deceased victim are exercised by their successors during the proceedings, if these successors are victims recognised as participants and certain requirements are met (as applied most recently in the *Yekatom and Ngaïssona* case).²³

15. For the recognition of deceased victims of the *Ongwen* case (where a resumption of action has been submitted) as victims in the *Kony* case, the Registry thus suggests adopting the same approach as by the *Yekatom and Ngaïssona* Chamber above. Moreover, the Registry requests that it be authorised to follow the same approach for any deceased victim in the *Kony* case.

b. Admission Process

16. The Registry supports the OPCV Request²⁴ to adopt the standard VPRS victim admission practice followed by various Chambers in recent cases. This approach, known as the ABC Process, is outlined as the general standard in the latest version

²¹ *Ongwen* case, Trial Chamber IX, “Decision on LRV Request Concerning the Deaths of Participating Victims”, 30 August 2017, ICC-02/04-01/15-962, para. 4(ii).

²² *Bemba* case, Pre-Trial Chamber III, “Bemba Fourth Decision on Victims’ Participation”, 12 December 2008, ICC-01/05-01/08-320, paras 47-51; *Al Hassan* case, Pre-Trial Chamber I, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 24 May 2018, ICC-01/12-01/18-37, para. 52; *Yekatom and Ngaïssona* case, Pre-Trial Chamber II, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 5 March 2019, ICC-01/14-01/18-141, para. 36.

²³ See *Bemba* case, Pre-Trial Chamber III, “Bemba Fourth Decision on Victims’ Participation”, 12 December 2008, ICC-01/05-01/08-320, paras 47-49. The conditions for the participation of a deceased victim read as follows:

47. [...] although a deceased person cannot present his or her “views and concerns” in the proceedings, the Single Judge sees no impediment that the rights of the deceased victim are exercised by their successors during the proceedings, if these successors are victims recognized as participants in the proceedings, as in the present case.

48. The successors must clearly indicate in the application form whether they act on their own behalf and on behalf of the deceased person.

49. Further, the applicant must provide the sufficient information on: (i) the identity of the deceased person, (ii) the identity of the successor, and (iii) the kinship between the successor and the deceased.

²⁴ OPCV Request, para 24.

of the Chambers Practice Manual, “generally [...]applicable at all stages of proceedings”.²⁵ Since its initial application during the trial in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”),²⁶ the ABC Approach has been consistently adopted at pre-trial and trial in several cases including *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*,²⁷ the *Yekatom and Ngaïssona* case,²⁸ the case of *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* (“Abd-Al-Rahman case”),²⁹ and the case of *The Prosecutor v. Mahamat Said Abdel Kani* (“Said case”).³⁰ and most recently in the case of *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka* (“Mokom case”).³¹

17. In addition, the Registry notes that the Independent Expert Report on the Review of the Court and the Rome Statute System held that the ABC Process is a system in which “[t]he task for the Judiciary is greatly simplified and expedited”.³²

²⁵ See Chambers Practice Manual, para. 96, *supra*, footnote 3. The approach has also been accepted as a suitable process in principle, particularly in cases with large victimisation: Appeals Chamber, “Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II of 16 April 2021 entitled ‘Decision establishing the principles applicable to victims’ applications for participation’”, 14 September 2021, ICC-01/14-01/21-171 (“Appeals Judgment”), para. 82: The ABC Process is “in principle an adequate tool to ensure the fairness and expeditiousness of the proceedings while at the same time respecting the rights of both the suspect/accused and the victims”.

²⁶ *Ntaganda* case, Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, 6 February 2015, ICC-01/04-02/06-449.

²⁷ *Al Hassan* case, Pre-Trial Chamber I, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 24 May 2018, ICC-01/12-01/18-37, paras. 43; 59 Trial Chamber X, “Decision on the procedure for the admission of victims to participate in proceedings for the purposes of trial”, 12 March 2020, ICC-01/12-01/18-661, para. 17-22.

²⁸ *Yekatom and Ngaïssona* case, Pre-Trial Chamber II, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 5 March 2019, ICC-01/14-01/18-141, para. 41, Trial Chamber V, “Order Scheduling First Status Conference”, 19 March 2020, ICC-01/14-01/18-459, para. 8 (iv) and fn. 5.

²⁹ *Abd-Al-Rahman* case, Pre-Trial Chamber II, “Decision establishing the principles applicable to victims’ participation and representation during the Confirmation Hearing, 18 January 2021, ICC-02/05-01/20-259, para. 34.

³⁰ *Said* case, Pre-Trial Chamber II, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 16 April 2021, ICC-01/14-01/21-56, paras 35-36.

³¹ *Mokom* case, Pre-Trial Chamber II, “Order on The Conduct of The Confirmation of Charges Proceedings”, ICC-01/14-01/22-62, 27 June 2022, paras 39 and 40 (iv).

³² Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report, 30 September 2020, ICC-ASP/19/16, para. 847.

18. Mindful of the Appeals Chamber's consideration calling for a case-by-case assessment of appropriateness,³³ the Registry notes the various factors that render the ABC Process most sensible and effective in the present proceedings:

- The overlap between the *Ongwen* and *Kony* cases, and therefore the fact that most (if not all) victims participating in the *Ongwen* case would also be subject to admission in the *Kony* case, would render the adoption of a similar victim admission approach the most efficient way forward.
- The present Case has an extensive scope and the Registry anticipates the receipt of a substantial number of victim applications;³⁴ in addition to the thousands of victim applications already received in relation to the *Ongwen* case,³⁵ and the applications already received in the Situation in Uganda,³⁶ the Registry estimates that several hundred potential new applicants may be identified before the confirmation of charges hearing.

19. The victim admission process, following the ABC Process, relies on features outlined in the Chambers Practice Manual.³⁷ It offers practical benefits, as observed in the aforementioned proceedings.³⁸ It allows both Parties and the Chamber to focus on pre-assessed unclear or ambiguous issues arising from victim applications in a grouped fashion. Moreover, the Registry would only need to redact a fraction of relevant forms – specifically Group C applications submitted

³³ See *Said* case, Appeals Judgement, paras 65, 67. The Appeals Chamber considered that 'any decision on the most appropriate system for the processing of victims' applications must always be case-specific, based on objective information and the result of a proper balancing of all the interests at stake. Importantly, any such decision cannot be prejudicial to the accused, or inconsistent with his or her rights'.

³⁴ See in particular the Appeal's Chamber guidance on this matter (*Said* case, Appeals Judgement, paras 60, 82). See also Chambers Practice Manual, Section V. A., at para. 96 (iv), see *supra*, footnote 3.

³⁵ The Registry notes that 4 096 victims are participating in the *Ongwen* case and that nearly 50 000 victims in total may benefit from reparations in this case. See in the *Ongwen* case, Trial Chamber IX, "Decision on the Registry Additional Information on Victims", 16 December 2022, ICC-02/04-01/15-2024, para. 18 and fn. 37 and also "Reparations Order", 28 February 2024, ICC-02/04-01/15-2074 ("Reparations Order"), para. 748.

³⁶ See OPCV Request, para. 25.

³⁷ Chambers Practice Manual, Section V. A., in particular at para. 96, (iv) to (xi).

³⁸ To date, 5,425 applications forms for participation and/or reparations were received in the Uganda Situation and related cases.

to the parties and legal representative(s). This streamlined approach results in significant time and resource savings. Consequently, the VPRS can efficiently process a larger number of victim applications, ensuring timely participation in proceedings leading up to the confirmation of charges hearing. Importantly, the ABC Process prioritises meaningful victim participation while safeguarding the victims' well-being and dignity without causing undue delays.³⁹

c. Application Forms

20. Regarding the appropriate application form, mindful of the OPCV Request to use the same application form designed at the time for the *Ongwen* case,⁴⁰ the Registry seeks the Chamber's approval to use its current combined standard application form for participation and reparations, for both for individuals and organisations, pursuant to rule 85 of the Rules, as outlined in the Chamber Practice Manual.⁴¹ The use of the form in other cases and situations over the past years has yielded positive outcomes enhancing the quantity and quality of the information collected. Furthermore, the standardised approach has streamlined the application process allowing for comprehensive submissions from victims covering both participation and reparation aspects.⁴²

B. Registry observations on means of identification

21. The Registry recommends that the Chamber endorses the approach adopted in the Situation in the Republic of Uganda ("Uganda Situation") and more recently in the *Ongwen* case with respect to the documentary requirements for participation.⁴³ It

³⁹ *Said* case, Appeals Judgement, paras 60 to 62.

⁴⁰ OPCV Request, paras. 22-23.

⁴¹ Chamber Practice Manual, para 96(i). See also the standard form as presently available on the ICC Victims page for several ongoing proceedings.

⁴² The Registry is presently developing a household form that facilitates the standardised gathering of information about all individuals within a household. Once finalised, it will be submitted separately for the Chamber's approval for use in the Case.

⁴³ Uganda Situation, Pre-trial Chamber II, "Decision on victims' applications for participation", ICC-02/04-125, 14 March 2008, para. 6. See also *Ongwen* case, Reparations Order, paras. 454-455. The Reparations Order makes reference to three additional means of identification that have consistently accepted in the *Ongwen* case.

does so since the circumstances prevailing today in Uganda are very similar to those described previously. As recognised by the Chamber in the *Ongwen* case,⁴⁴ and further described below, victims still face challenges in establishing their identity.

22. The services related to the delivery of official documentation in Uganda have been disrupted for many years.⁴⁵ In relation to the renewal of Ugandan national identity cards, the mass enrolment to register or renew expiring/expired identity cards of close to 30 million Ugandans is expected to start on 1 June 2024. The national identity cards should be issued free of charge and for any Ugandan national above 16.⁴⁶ However, the process faced delays.⁴⁷ Legislators have raised concerns about the necessity of renewal and the slow issuance process.⁴⁸
23. The children born under the Lord's Resistance Army's captivity are facing complex challenges in relation to their identity.⁴⁹ One of them lies in addressing their stigma and ensuring their full access to civil rights, including the issuance of national identity documents.⁵⁰ As highlighted by the Registry in the *Ongwen* case,⁵¹ this

⁴⁴ See Reparations Order, paras. 454-455

⁴⁵ Government of the Republic of Uganda, "The Government of the Republic of Uganda's Submissions on Reparations" 7 February 2022, ICC-02/04-01/15-1978, para.31.

⁴⁶ National Identification and Registration Authority, <https://www.nira.go.ug/media/2024/01/FAQs-MASS-ENROLMENT-2024.pdf>, accessed on 2 May 2024.

⁴⁷ *Idem*.

⁴⁸ Kamurungi, Elizabeth. "Registration for Upgraded National IDS to Start June 2024." *Monitor*, 13 February 2024, <https://www.monitor.co.ug/uganda/news/national/registration-for-upgraded-national-ids-to-start-june-2024-4524204>, accessed on 6 May 2024. Some legislators argue that neighbouring countries do not require renewal every 10 years, as long as someone has turned 18 and continues to use similar biometrics.

⁴⁹ It is estimated that over 1,000 children born under LRA captivity in the Democratic Republic of Congo, Central African Republic, and South Sudan are struggling to acquire Ugandan citizenship. See Kemigisha, Martha. "Children Born in LRA Captivity Struggling for Identity, Not Considered Ugandan Citizens." *Pulse Uganda*, 8 August 2022, www.pulse.ug/news/children-born-in-lra-captivity-struggling-for-national-not-considered-ugandan/yr4clpr.

⁵⁰ Kiconco, Allen, "Children born of rebel captivity: Politics and practices of integration in Uganda", *Frontiers*, 9 May 2022, <https://www.frontiersin.org/articles/10.3389/fpos.2022.823995/full>

⁵¹ Registry, "Registry's Mapping Report and Submission on Reparations", ICC-02/04-01/15-1919, 6 December 2021. See Annex II, para. 10: "[...] it is reported in various sources that children of war face difficulties in obtaining Ugandan birth certificates and national identity documents and are therefore unable to prove their citizenship and have full access to their civil rights. Lack of identification results in children being unable to register for and attend school, access healthcare and reintegration programs,

specific category of direct victims faces significant hurdles when attempting to register with the National Identity and Registration Authority in Uganda. Consequently, the Registry anticipates that many of these individuals do not possess official documents to establish their identity.

24. For these reasons, the Registry respectfully requests the Chamber to accept the following documents as proof of identity for applicants and those acting their behalf:

- (i) all types of identity documents accepted by Pre-Trial Chamber II in the Uganda Situation;⁵²
- (ii) all types of identity documents accepted by Trial Chamber IX in the *Ongwen* case⁵³ and a statement signed by two witnesses and accompanied by their proof of identity, attesting to the identity of the victim applicant/person acting on his/her behalf, in cases where obtaining the specified documents is not feasible;⁵⁴ And
- (iii) any other documents submitted by future applicants that share similar features with those already authorised in the Uganda situation and in the *Ongwen* case, based on assessments and recommendations provided by the Registry as appropriate.

or exercise their right to vote. Moreover, in Uganda, identity is largely defined by paternal clan membership and this informs access to land, resources and social status. Families and communities are unwilling to accept children of war, as they are not considered to be a part of the clan or to have fathers with “tainted” LRA identities.”

⁵² See *supra* footnote 42. It includes (i) Passport, (ii) Voter card, (iii) Certificate of registration by the Electoral Commission, (iv) Driving permit, (v) Graduated tax ticket, (vi) ‘Short’ or ‘Long’ birth certificate, (vii) Birth notification card, (viii) Certificate of amnesty, (ix) Residence permit or card issued by a Local Council, (x) Identification letter issued by a Local Council, (xi) Letter issued by a leader of an IDP Camp, (xii) ‘Reunion letter’ issued by the Resident District Commissioner, (xiii) Identity card issued by a workplace or an educational establishment, (xiv) Letters issued by a rehabilitation centres, (xv) Camp registration card and card issued by humanitarian relief agencies, such as United Nations High Commissioner for Refugees and World Food Programme, (xvi) Baptismal card or certificate from religious institutions.

⁵³ See *supra* footnote 42. In addition to the 16 means of identification accepted in the Uganda Situation, the Trial Chamber IX also recognised specifically (xvii) National ID card, (xviii) Voter location slip, (xix) a statement signed by two witnesses and accompanied by their proof of identity attesting to the identity of the victim applicant/person acting on his/her behalf.

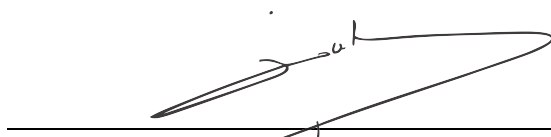
⁵⁴ See *supra* footnotes 42 and 52.

C. Registry collection of victims' views as to their legal representation

25. In order to give full effect to the general premise of rule 90 of the Rules, the Registry hereby suggests to collect information on victims' preferences as to their legal representation in the *Kony* proceedings. This includes:

- Collecting the victims' general views and preferences as regards their legal representation, gathered through the relevant standard questions in the victim application form⁵⁵; this includes questions to the characteristics and qualities victims consider important in a (common) legal representative to represent them in proceedings before the Court;
- Consultations with relevant interlocutors, victim representatives and others in the field or elsewhere.

26. The Registry proposes to submit a report on the information thus collected and potential recommendations for the Chamber's information, sufficiently in advance of the confirmation of charges hearing, as the Chamber may deem appropriate.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 8 May 2024

At The Hague, the Netherlands

⁵⁵ See Annex I to the present submissions, question 14 in the grey box.