

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **17/07/2024**

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

Request for Variation of the Page Limit

Source:

Defence for Mr Joseph Kony

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

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Mr Mame Mandiaye Niang
Ms Leonie von Braun

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Peter Haynes KC

Legal Representatives of the Victims

Legal Representatives of the Applicant

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

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Amicus Curiae

REGISTRY

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Counsel Support Section
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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

I. INTRODUCTION

1. On 2 May 2024, the Single Judge ordered counsel for Mr Kony, once appointed, to provide observations and responses, if any, to filings relevant to (i) the conduct of the confirmation of charges hearing *in absentia*, and (ii) the adoption of protocols, and an *in situ* hearing in Uganda as enumerated paragraph 27 (a) and (b) of its decision.¹ Given the overlap that exist between these two topics, and to promote judicial efficiency, the Defence intends to combine its responses to these two categories of filings in one consolidated response.

2. To facilitate this consolidated response, and pursuant to Regulation 37(2) of the Regulations of the Court (the “Regulations”), the Defence respectfully requests a variation of the page limit from 20 pages to 50 pages. This variation is sought, out of an abundance of caution, to respond to the specific decisions and filings named by the Single Judge, which themselves total approximately 100 pages, but which are underpinned by a large number of requests, responses, replies and reports from the Prosecution, OPCV, OPCD, and Registry. The Defence submits that exceptional circumstances exist, and the extension is necessary for the reasons set out below.

II. PROCEDURAL HISTORY

3. On 4 March 2024, Pre-Trial Chamber II, *inter alia*, instructed the Registry to commence the process of selecting counsel for Mr Joseph Kony.²

4. On 2 May 2024, the Single Judge, *inter alia*, ordered counsel for Mr Joseph Kony, once appointed, to make observations and provide a response to Prosecution and Victims’ observations on various issues, including on the conduct of the confirmation of charges proceedings *in absentia*, the adoption of certain protocols, and an *in situ* hearing in Uganda, enumerated in paragraph 27 of the decision.³

¹ Decision on the Procedure for Appointing Counsel, [ICC-02/04-01/05-499](#), 2 May 2024, public, para. 27 (a), (b) (the “2 May 2024 Decision”).

² Second decision on the Prosecution’s request to hold a confirmation of charges hearing in the *Kony* case in the suspect’s absence, [ICC-02/04-01/05-481](#), 4 March 2024, public.

³ Decision on the Procedure for Appointing Counsel, [ICC-02/04-01/05-499](#), 2 May 2024, public, para. 27 (a) (b).

5. On 21 June 2024, Peter Haynes KC was appointed as Counsel to represent the rights and interests of Mr Joseph Kony during the confirmation proceedings.⁴ Mr Haynes' appointment became public on 24 June 2024.⁵

6. On 28 June 2024, the Defence submitted the "Defence Request for Variation of Deadlines and for a Status Conference" (the "Request").⁶

7. On 3 July 2024, the Prosecution,⁷ and the Office of the Public Counsel for Victims (the "OPCV")⁸ responded to the Request.

8. On 5 July 2024, the Single Judge granted the Request and, *inter alia*, ordered that the time limits set in the 2 May 2024 Decision shall start running on 15 August 2024.⁹

III. APPLICABLE LAW

9. Regulation 37(1) of the ICC Regulations stipulates that "a document filed with the Registry shall not exceed 20 pages". Pursuant to Regulation 37(2) of the Regulations, this page limit may be extended "in exceptional circumstances."

IV. SUBMISSIONS

10. On 15 August 2024, the Defence is required to file observations, if any, on "(i) 'Decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence' (ICC-02/04-01/05-466); (ii) 'Second decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence' (ICC-02/04-01/05-481); and (iii) 'Registry's Report on the implementation of the "Second decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence" dated 4 March 2024 (ICC-02/04-01/05-481)' (ICC-02/04-01/05-491)".

11. 10 days later, the Defence is required to provide a response, if any to the "(i) 'Prosecution's Observations on the conduct of the confirmation proceedings in absentia and

⁴ Notification of the Appointment of Mr Peter Haynes KC as Counsel for Mr Joseph Kony, [ICC-02/04-01/05-503](#), 24 June 2024, public, with confidential annex II and public annexes I, III and IV.

⁵ Notification of the Appointment of Mr Peter Haynes KC as Counsel for Mr Joseph Kony, [ICC-02/04-01/05-503](#), 24 June 2024, public, with confidential annex II and public annexes I, III and IV.

⁶ Defence Request for Variation of Deadlines and for a Status Conference, [ICC-02/04-01/05-504](#), 28 June 2024, public.

⁷ Prosecution's response to "Defence Request for Variation of Deadlines and for a Status Conference", [ICC-02/04-01/05-506](#), 3 July 2024, public.

⁸ Victims' Response to "Defence request for variation of the Deadlines and for Status Conference" (ICC-02/04-01/05-504), [ICC-02/04-01/05-507](#), 3 July 2024, public.

⁹ Decision on the 'Defence Request for Variation of Deadlines and for a Status Conference', [ICC-02/04-01/05-508](#), 5 July 2024, public.

Requests for the adoption of certain protocols and an in situ hearing in Uganda’ (ICC-02/04-01/05-490); and (ii) ‘Victims’ response to Prosecution’s requests for the adoption of certain protocols and an in situ hearing in Uganda (No. ICC-02/04-01/05-490)’ (ICC-02/04-01/05-494)”.¹⁰

12. In preparing for the 15 August 2024 filing, the Defence has found areas of overlap between the decisions taken to hold an *in absentia* confirmation of charges hearing, and the submissions of the Prosecution and Legal Representatives of Victims on the protocols the Pre-Trial Chamber has been asked to adopt. The Defence accordingly intends to file a consolidated filing on 15 August 2024 addressing the first two categories of filings in paragraphs 27 (a) and (b) of the 2 May 2024 Order, rather than filing separate responses 10 days apart.

13. To facilitate this consolidated filing, the Defence seeks a limited variation of the page limit to 50 pages. Exceptional circumstances exist, as required by Regulation 37(2) of the Regulations. Firstly, the varied page limit will promote efficiency, allowing the Defence to present overlapping submissions and arguments in a more streamlined and coherent manner, and will allow the Pre-Trial Chamber to consider these issues together, and earlier.

14. The complexity and novelty of the issues to which the Defence is responding provides further support for the present request. The Defence anticipates difficulties presenting meaningful submissions within the current page limit, particularly considering the volume of litigation on which the Decisions are based. The Single Judge has already acknowledged that the Defence submissions in question “constitute the first opportunity for the Defence to be heard on an array of matters, including on issues crucial for the initiation of the confirmation proceedings *in absentia*”, and highlighted the importance of the Defence making submissions that are “relevant and meaningful”.¹¹ The limited page extension sought will further facilitate that aim.

V. RELIEF REQUESTED

15. For the reasons set out above, the Defence respectfully requests that the Single Judge:

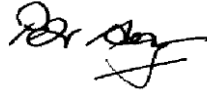
FIND that exceptional circumstances for a variation of the page limit exist in the present case; and

¹⁰ Decision on the Procedure for Appointing Counsel, [ICC-02/04-01/05-499](#), 2 May 2024, public, para. 27 (a), (b).

¹¹ Decision on the ‘Defence Request for Variation of Deadlines and for a Status Conference’, [ICC-02/04-01/05-508](#), 5 July 2024, public, para. 12.

ORDER that the page limit for the Defence consolidated observations and response be extended to 50 pages.

The whole respectfully submitted.



Peter Haynes KC
Counsel for Joseph Kony

The Hague, The Netherlands,
Wednesday, July 17, 2024