



Original: English

**No. ICC-02/04-01/05
Date: 12 December 2024**

PRE-TRIAL CHAMBER III

Before:

**Judge Althea Violet Alexis-Windsor, Presiding Judge
Judge Iulia Antoanella Motoc
Judge Haykel Ben Mahfoudh**

**SITUATION IN THE REPUBLIC OF UGANDA
IN THE CASE OF
*THE PROSECUTOR v. JOSEPH KONY***

Public

**Decision Setting the Date of the Confirmation of Charges Hearing and
Related Time Limits**

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

The Office of the Prosecutor

Mr Karim Khan
Mr Mame Mandiaye Niang
Ms Leonie von Braun

Counsel for Mr Kony

Mr Peter Haynes

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
Ms Sarah Pellet

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and
Reparations Section**

Other

PRE-TRIAL CHAMBER III of the International Criminal Court (the ‘Court’) issues this ‘Decision Setting the Date of the Confirmation of Charges Hearing and Related Time Limits’, pursuant to articles 61(1), (3), (4) and 67(1)(b) of the Rome Statute (the ‘Statute’), rules 69, 121(1), (2), (3), (4), (5), (9), 122(1), (3), 125(1) and 126(1) of the Rules of Procedure and Evidence (the ‘Rules’), and regulation 52 of the Regulations of the Court.

I. PROCEDURAL HISTORY

1. On 8 July 2005, Pre-Trial Chamber II issued a warrant of arrest against Joseph Kony, which was amended on 27 September 2005.¹
2. On 19 January 2024, the Prosecution submitted the ‘Document Containing the Charges’ (the ‘DCC’).²
3. On 12 September 2024, the Chamber vacated the date of the confirmation of charges hearing, and postponed the hearing until further notice (the ‘12 September 2024 Decision’).³
4. On 29 October 2024, the Chamber issued the ‘Decision on the criteria for holding confirmation of charges proceedings in absentia’ (the ‘29 October 2024 Decision’).⁴
5. On 12 December 2024, the Chamber issued the ‘Decision Setting the Disclosure Regime’ (the ‘Disclosure Decision’) and the ‘Decision on the Document Containing the Charges and the “Victims’ Concerns on the Document Containing the Charges”’ (the ‘DCC Decision’).

¹ Warrant of Arrest for Joseph Kony Issued on 8 July 2005 as Amended on 27 September 2005, 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](#)).

² [ICC-02/04-01/05-474](#), public.

³ [Decision Postponing the Confirmation of Charges Hearing](#), ICC-02/04-01/05-526, public.

⁴ [ICC-02/04-01/05-532](#), public.

II. DETERMINATION

A. Date of the Confirmation of Charges Hearing

6. The Chamber recalls that it previously found that ‘a specific date [for the confirmation of charges hearing] can only be set once the Chamber has addressed the outstanding matters that will affect the time-line of the present proceedings, including the Prosecution’s disclosure obligations.’⁵ In this regard, the Chamber recalls that it has ordered the Prosecution to implement specific instructions pertaining to its disclosure in the Disclosure Decision. The Chamber has also instructed the Prosecution to resubmit the DCC in accordance with the instructions contained in the DCC Decision.

7. The Chamber has the duty to ensure that sufficient time is provided to the Prosecution to properly implement this set of instructions. The same consideration equally applies to the Defence, which is entitled to a sufficient period of time to prepare for the confirmation of charges hearing by virtue of article 67(1)(d) of the Statute and rule 121(1) of the Rules, especially in view of the fact that the present proceedings are conducted in the absence of the suspect.

8. In light of the above, the Chamber decides that the confirmation of charges hearing shall commence on 9 September 2025. A decision defining the specific schedule will be issued in due course.

9. Furthermore, the Chamber recalls that it has ordered the Registry to ‘undertake and carry out notification efforts and outreach activities of the same nature, variety and range as the ones carried out in respect of the date of 15 October 2024, initially set by Pre-Trial Chamber II for the commencement of the confirmation of charges hearing’.⁶ It further considered that ‘[t]hese activities shall start as soon as the Chamber sets the new date for the confirmation of charges hearing and shall be concluded within 30 days, with a report to be submitted to the Chamber within one week of their completion’.⁷

10. Noting the forthcoming recess period, the Chamber orders the Registry to: (i) commence its outreach and notification activities regarding the date of the commencement of the confirmation of charges hearing, as set in the present decision,

⁵ [12 September 2024 Decision](#), para. 13.

⁶ [29 October 2024 Decision](#), para. 70.

⁷ [29 October 2024 Decision](#), para. 70.

as of 6 January 2025; (ii) complete these activities by no later than 7 February 2025; and (iii) report to the Chamber by no later than 14 February 2025.

B. Related Time Limits

11. In addition to the time limits set out in the Disclosure Decision and the DCC Decision, the Chamber adopts the following time limits with a view to facilitating the parties' and participants' preparations for the confirmation of charges hearing and ensuring the orderly conduct of the proceedings preceding this hearing. This decision is without prejudice to any additional time limits that may be set by the Chamber prior to the commencement of the confirmation of charges hearing.

1. Matters arising from the disclosure process

12. The Chamber recalls that, in the Disclosure Decision, it ordered the Prosecution to complete its disclosure process by no later than 28 March 2025. The parties and, to the extent applicable, participants shall bring any matter arising from the disclosure process to the attention of the Chamber by way of a formal filing by no later than 9 May 2025 or within six weeks of the date of the formal completion of the Prosecution's disclosure process, whichever date comes earlier.

13. Following the expiry of this time limit, the Chamber shall not entertain any matter pertaining to the disclosure process, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto.

2. Matters arising from the resubmission of the DCC

14. The Chamber recalls that, in the DCC Decision, it ordered the Prosecution to resubmit the DCC by no later than 17 April 2025. The parties and, to the extent applicable, participants shall bring any challenge to the DCC or any other matter arising from the resubmission of the DCC to the attention of the Chamber by way of a formal filing by no later than 23 May 2025 or within five weeks of the date of the resubmission of the DCC, whichever date comes earlier.

15. Following the expiry of this time limit, the Chamber shall not entertain any matter pertaining to the resubmission of the DCC, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto.

3. Other matters arising from the proceedings preceding the confirmation of charges hearing

16. Any requests pertaining to any matter arising from the proceedings leading up to the confirmation of charges hearing, other than the disclosure process and the DCC, shall be submitted by no later than 11 July 2025, without prejudice to the submission of any objections and observations pursuant to rule 122(3) of the Rule, as further set out hereafter.

17. Following the expiry of this time limit, the Chamber shall not entertain any matter arising from the proceedings leading up to the confirmation of charges hearing, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto. The Chamber will assess, on a case-by-case basis, whether such requests will be adjudicated by way of a separate decision or in its decision on the confirmation of the charges under article 61(7) of the Statute.

4. Amendment of charges and new evidence

18. Rule 121(4) of the Rules provides that, should the Prosecution intend to amend the charges pursuant to article 61(4) of the Statute, it shall do so no later than 15 days before the confirmation of charges hearing. Pursuant to rule 121(5) of the Rules, where the Prosecution intends to present new evidence at the confirmation of charges hearing, it must provide a list of such evidence within the same time limit.

19. The time limits referred to in rule 121(4) and (5) of the Rules are only indicative of the minimum notice period a party may avail itself of. So as to allow for adequate

preparation by the parties and participants, the Prosecution shall take any steps pursuant to rule 121(4) and/or (5) of the Rules by no later than 4 July 2025.

5. *Submissions pursuant to rule 121(9) of the Rules*

20. Pursuant to rule 121(9) of the Rules, '[t]he Prosecutor and the person may lodge written submissions with the Pre-Trial Chamber, on points of fact and on law, including grounds for excluding criminal responsibility set forth in article 31, paragraph 1, no later than three days before the date of the hearing'.

21. The Chamber emphasises that the written submissions foreseen under rule 121(9) of the Rules should not duplicate the parties' submissions to be presented at the confirmation of charges hearing. Accordingly, rule 121(9) submissions should only be provided in exceptional circumstances. As the relevant time limit is indicative, the Chamber orders the Prosecutor and the Defence to provide their submissions pursuant to rule 121(9) of the Rules, if any, by no later than 29 August 2025.

6. *Objections and observations pursuant to rule 122(3) of the Rules*

22. Rule 122(3) of the Rules provides that, '[b]efore hearing the matter on the merits, the Presiding Judge of the Pre-Trial Chamber shall ask the Prosecution and the person whether they intend to raise objections or make observations concerning an issue related to the proper conduct of the proceedings prior to the confirmation hearing'.

23. It is recalled that rule 122(3) of the Rules provides an opportunity for raising issues or objections that could not have reasonably been brought to the Chamber's attention in the course of the proceedings preceding the confirmation of charges hearing. The parties shall, therefore, refrain from repeating or reformulating previous submissions, raising matters that have already been adjudicated, or raising issues for which a remedy could have been sought previously in accordance with the time limits included in the present decision.

24. The Chamber instructs the parties to provide any submissions pursuant to rule 122(3) of the Rules in writing by no later than 22 August 2025.

7. *Abridged version of the DCC*

25. In light of the limited time available during the confirmation of charges hearing, as well as for the purposes of clarity, the Chamber deems it appropriate to instruct the Prosecution to provide an abridged version of the DCC to be read out in public session by the Court Officer at the start of the confirmation of charges hearing in accordance with rule 122(1) of the Rules. The document should be apt to be read out within a reasonable time with the aim of informing the public of the charges brought by the Prosecution against the suspect. The abbreviated version should therefore employ a narrative style and focus on the alleged criminal conduct, with less emphasis to be placed on the corresponding legal qualification. Repetition and unnecessary technical language should be avoided as much as possible.

26. Should the Defence object to having an abridged version of the DCC, as opposed to the full text of the charges, read out at the confirmation of charges hearing, it shall indicate so by no later than 26 August 2025 by way of email communication. Absent any indication from the Defence to this effect, the Prosecution shall submit the abridged version of the DCC to the Chamber by way of email communication by no later than 2 September 2025.

8. *Agreement as to facts*

27. Pursuant to rule 69 of the Rules, '[t]he Prosecutor and the defence may agree that an alleged fact, which is contained in the charges, the contents of a document, the expected testimony of a witness or other evidence is not contested and, accordingly, a Chamber may consider such alleged fact as being proven, unless the Chamber is of the opinion that a more complete presentation of the alleged facts is required in the interests of justice, in particular the interests of the victims'.

28. The Chamber notes that the possibility of an agreement under rule 69 of the Rules constitutes a procedural tool that allows the parties and the Chamber to narrow the scope of the matters to be addressed and to focus on those in dispute by eliminating the need to discuss the facts covered by the agreement. As such, it is directly instrumental to the overall efficiency and expeditiousness of the proceedings. The parties are therefore instructed to liaise for these purposes and to report back to the Chamber by no later than 20 June 2025.

29. The Chamber clarifies that, whilst potentially beneficial in light of its possible use in enhancing the efficiency of the confirmation proceedings, any agreement reached between the parties on relevant facts is without prejudice to the Chamber's prerogative to order 'a more complete presentation of the alleged facts', whenever such complete presentation 'is required in the interests of justice, in particular the interests of the victims'. The Chamber also recalls that, under article 69(6) of the Statute, it may take judicial notice of facts of common knowledge.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that the confirmation of charges hearing shall commence on 9 September 2025;

ORDERS the Registry to: (i) commence its outreach and notification activities regarding the date of the commencement of the confirmation of charges hearing, as set in the present decision, as of 6 January 2025; (ii) complete these activities by no later than 7 February 2025; and (iii) report to the Chamber by no later than 14 February 2025; and

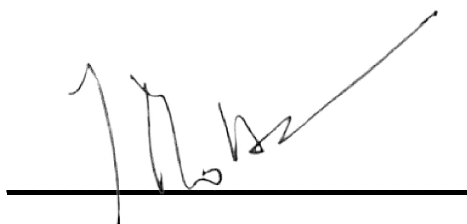
ORDERS the Defence, Prosecution and, to the extent applicable, OPCV and/or, once appointed, the legal representatives of victims to comply with the time limits defined in the present decision.

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

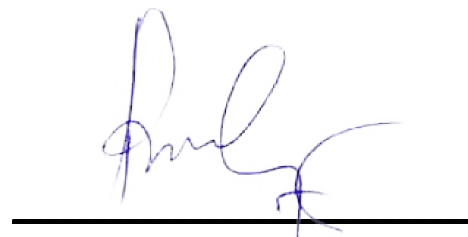


Judge Althea Violet Alexis-Windsor

Presiding Judge



Judge Iulia Antoanella Motoc



Judge Haykel Ben Mahfoudh

Dated this Thursday, 12 December 2024.

At The Hague, The Netherlands.