

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 January 2025

PRE-TRIAL CHAMBER III

Before: Judge Althea Violet Alexis-Windsor, Presiding Judge
Judge Iulia Motoc
Judge Haykel Ben Mahfoudh

SITUATION IN IN THE REPUBLIC OF UGANDA

IN THE CASE OF THE PROSECUTOR v. JOSEPH KONY

Public Document

Redacted version of the “Observations by the Victims and Witnesses Unit in relation to the treatment of the documents presented in Annex I of the Order of the Single Judge of 19 March 2008” (ICC-02/04-01/05-297-US-Exp) dated 06 June 2008

Source: Registry

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence
D35

☒ Legal Representatives of the Victims
V49

☐ Legal Representatives of the
Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for
Victims

☐ The Office of Public Counsel for the
Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar
M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Ordonnance sollicitant du Procureur et de la Division d’aide aux victimes et aux témoins des observations relatives à la levée des scellés concernant certains documents dans les dossiers de la situation et de l’affaire et à la modification du niveau de confidentialité de ceux-ci”¹ (the «Order of the Single Judge »), issued by the Single Judge of Pre-Trial Chamber II (the “Single Judge”) on 19 March 2008 ;

NOTING Annex I to the Order of the Single Judge available to the Prosecution, the Victim and Witnesses Unit and the Registry only²;

NOTING the “Prosecution’s Submission of Proposals for the Treatment of Documents Listed in Annex I of the Order of the Single Judge Dated 19 March 2008”³, submitted by the Prosecution on 6 May 2008 (the “Prosecution’s proposals”);

NOTING Articles 68(1) and (4) and 43(6) of the Rome Statute (the “Statute”), Rules 17 to 19, 87 and 88 of the Rules of Procedure and Evidence, and Regulation 41 of the Regulations of the Court;

CONSIDERING that the Single Judge ordered the Victims and Witnesses Unit to submit, in light of the Prosecution’s proposals, its observations in relation to the treatment of documents presented in Annex I to the Order of the Single Judge, documents contained in the records of the situation and the case, and on the possibility of unsealing these documents, by 6 June 2008, as well as on the possible

¹ ICC-02/04-01/05-284.

² ICC-02/04-01/05-284-US-Exp-AnxI.

³ ICC-02/04-01/05-295-US-Exp.

need to maintain the redactions proposed by the Prosecution before the documents are unsealed, and the scope of such redactions or the need for further redactions⁴;

CONSIDERING that the Single Judge ordered that the said observations be presented under seal, *Ex parte*, only available to the Victims and Witnesses Unit and the Prosecution⁵;

SUBMITS the following observations.

1. The Victims and Witnesses Unit notes that, when reviewing the treatment of the documents listed in Annex I to the order of the Single Judge proposed by the Prosecution, the Victims and Witnesses Unit should focus on issues in relation to its specific mandate. Consequently, the Victims and Witnesses Unit focuses in its observations on the protection of the identity of victims and witnesses and any information which could first lead to their identification and second reveal procedural and operational measures related to the work of the Victims and Witnesses Unit. Assessment of other possible reasons for redaction falls outside its mandate.
2. The Victims and Witnesses Unit has examined the Prosecution's proposals and has no objections to the treatment recommended, nor the reasons provided for such treatment. In addition to these proposals, the Victims and Witnesses Unit would like to submit the following recommendations.
3. ICC-02-04-T-3-CONF-EXP-EN [21]Jun2005 Corrected] 114-161 SZ PT : *Ex parte* hearing on procedural matters ;

ICC-02-04-T-3-CONF-EXP-FR [21]juin2005 Corrigée] 81-113 SZ PT

⁴ ICC-02/04-01/05-284, pp 6-7.

⁵ ICC-02/04-01/05-284, p. 7.

The Victims and Witnesses Unit would like to draw the attention of the Single Judge to some inconsistencies between documents ICC-02/04-01/05-83-US-Exp-AnxA and ICC-02/04-01/05-US-AnxB which detail the proposed redactions of the Prosecution. Annex A seems to be a more complete version of redactions.

4. ICC-02-04-01-05-T-1-CONF-EN [3oct2005 Edited] 1-92 SZ PT: Status conference;⁶

The Prosecution proposes to unseal these documents in redacted form.

In addition to the redactions proposed by the Prosecution, the Victims and Witnesses Unit proposes to redact under Article 68(1) the following:

Page 24 at lines 6 to 23: "MR THE PRESIDING JUDGE SLADE: in terms of concentration of these measures, I am trying to pursue the distinction between the camps and areas out of the camps. The witnesses – the OTP witnesses – seem to be resident elsewhere, mostly in the towns and the cities, I believe. In terms of the concentration of these protective measures, where are your efforts aimed at? Just give us some idea.

[REDACTED] : The measures, and in particular we can talk about the initial response system, is geared towards where the witnesses living in Camp A, then we will set up an initial response system around that camp. So wherever the witnesses are currently residing, we have set up the initial response system around those camps with a service that is capable of providing the initial response. And they were the systems that we tested in August and in September."

Page 71 at lines 3 to 4: "[...] using language that would substitute the reference to ting-ting or the child [...]."

5. ICC-02-04-01-05-T-2-CONF-EN [6oct2005 Edited] 1-116 SZ PT: Status conference;

⁶ The same applies for ICC-02-04-01-05-T-1-CONF-FR [3oct2005 Editée] 1-59 SZ PT.

ICC-02/04-01/05-T-2-CONF-FR [6oct2005 Editée] 1-74 SZ PT

The Prosecution proposes to unseal these documents in redacted form.

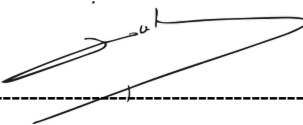
The Victims and Witnesses Unit agrees with the proposed redactions and submits that due to a high number of necessary redactions, unsealing these documents in a redacted version would be without interest for public, as the documents would become incomprehensible. Consequently, the Victims and Witnesses Unit recommend that the documents should remain confidential.

6. ICC-02/04-01/05-T-6-CONF-EXP-EN [12Feb2007Edited] 1-40 NB PT : *Ex parte* Hearing :

ICC-02/04-01/05-T-6-CONF-EXP-FR [12fev2007 Editee] 1-29 SZ PT

These documents are *Ex parte* exclusively available to the Victims Participation and Reparations Section and to the Office of Public Counsel for Victims. As they are not available to the Prosecution, it did not propose any treatment regarding these documents.

Considering that these documents are available only to the Victims Participation and Reparations Section and the Office of Public Counsel for Victims, the Victims and Witnesses Unit recommend that they should remain confidential *Ex parte*.



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

Dated 21th January 2025

At The Hague, The Netherlands