

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original:

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

Date: 18 June 2025

PRE-TRIAL CHAMBER III

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

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

Public

Joint Prosecution and Defence report on agreed facts

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

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ 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

I. SUBMISSIONS

1. On 12 December 2024, the Chamber instructed the Prosecution and the Defence (“Parties”) to liaise on alleged facts pursuant to rule 69 of the Rules of Procedure and Evidence (“Rules”) and to update the Chamber, no later than 20 June 2025.¹
2. After submission of the amended Document containing the charges and the Prosecution’s Pre-Confirmation Brief with the List of Evidence, the Parties exchanged *ex parte* communications on a first set of alleged facts proposed by the Prosecution for potential agreement. These proposed facts related to the themes of contextual elements of crimes against humanity and war crimes, the identity of Mr Kony’s alleged co-perpetrators, and their role and position in the LRA.²
3. On 10 June 2025, the Defence communicated by way of email that “based on the Court’s prior practice as regards the impropriety of agreeing facts without consultation with the client (see, for example *Ntaganda* ICC-01/04-02/06-T-234-Red-ENG WT, 31 August 2017, p. 28), [they] are of the view that any agreement of facts in the absence of instructions would conflict with [their] professional obligations.”³ Furthermore, the Defence communicated that they “are concerned that any such agreement would not be limited to confirmation proceedings and could potentially bind Mr Kony at trial or in any future confirmation proceedings to be held in his presence in a manner prejudicial to his interests.” The Prosecution has taken note of the Defence’s position and not sent additional alleged facts for consideration.

¹ICC-02/04-01/05-539, para. 28.

² Submission by the Prosecution to the Defence of a list of proposed facts by way of email on 30 May 2025.

³ See ICC-01/04-02/06-T-234-Red-ENG, p. 28, lns 8-24: “The Chamber notes with concern [...] that Mr Ntaganda has not been consulted on this issue [...] The Chamber shall also decide [at a later stage] whether issues arising from the Code of Professional Conduct for Counsel will need to be addressed.”

II. CONCLUSION

4. For the above reasons, the Prosecution and Defence hereby notify the Chamber that they have not reached an agreement on any alleged facts.



Mame Mandiaye Niang, Deputy Prosecutor



Peter Haynes KC, Counsel for Joseph Kony

Dated this 18th day of June 2025
At The Hague, the Netherlands