



Original: English

No. ICC-02/04-01/05

Date: 17 July 2025

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

Order setting the schedule and directions for the confirmation of charges hearing

Decision 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
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 ‘ICC’ or ‘Court’) issues this ‘Order setting the schedule and directions for the confirmation of charges hearing’, pursuant to article 61(5) and (6) of the Rome Statute (the ‘Statute’) and rule 122 of the Rules of Procedure and Evidence (the ‘Rules’).

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 8 July 2005, Pre-Trial Chamber II issued a warrant of arrest against Joseph Kony (‘Mr Kony’), which was amended on 27 September 2005.¹
2. On 23 November 2023, Pre-Trial Chamber II issued its ‘Decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence’, thereby *inter alia*: (i) finding that Mr Kony qualifies as a person who ‘cannot be found’ within the meaning of article 61(2)(b) of the Statute, all reasonable steps to secure his appearance had been taken, and, under the prevailing circumstances, there would be cause to hold a confirmation of charges hearing against him, in his absence; and (ii) deferring the final decision on whether to proceed with a confirmation of charges hearing in the absence of Mr Kony, pending the outcome of the notification and outreach activities as regards the charges and the date of the hearing (the ‘23 November 2023 Decision’).²
3. On 23 July 2024, a status conference was held (the ‘23 July 2024 Status Conference’).³
4. On 29 October 2024, the Chamber issued the ‘Decision on the criteria for holding confirmation of charges proceedings *in absentia*’, finding that all the requirements set forth in article 61(2)(b) of the Statute were met (the ‘29 October 2024 Decision’).⁴
5. On 12 December 2024, the Chamber issued the ‘Decision Setting the Date of the Confirmation of Charges Hearing and Related Time Limits’ (the ‘Decision on Time

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 (lesser public redacted version issued on 10 March 2023, [ICC-02/04-01/05-456-Anx](#)).

² [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, public.

³ [ICC-02/04-01/05 -T-013-Red-ENG](#).

⁴ [ICC-02/04-01/05-532](#).

Limits’),⁵ which *inter alia* set 9 September 2025 as the date for the commencement of the confirmation hearing, and 11 July 2025 as the time limit to submit requests pertaining to any matter arising from the proceedings leading up to the confirmation of charges hearing, other than the disclosure process and the document containing the charges (the ‘DCC’). Furthermore, parties and participants were instructed to indicate 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, pursuant to rule 122(3) of the Rules, by no later than 22 August 2025 and to provide any submissions on points of fact and on law, including grounds for excluding criminal responsibility, pursuant to rule 121(9) of the Rules, by no later than 29 August 2025.

6. On 8 July 2025, by way of email pursuant to the Single Judge’s order dated 18 June 2025,⁶ the Prosecution,⁷ the Common Legal Representatives of Victims (‘CLRVs’)⁸ and the Defence⁹ communicated their observations on the organisation of the confirmation of charges hearing.

7. The Prosecution indicated they would require approximately 4 hours, including their final statement.

8. The Defence indicated that, in the event they would make any oral presentation, they would need ‘a maximum of two hours for the entirety of [their] submissions’ and that they did not ‘intend to use this time to call any evidence’.

9. The CLRV requested 4 hours for their presentation, including the opening statement, and 1,5 hours for the closing statements, including responding to the other parties’ submissions. Furthermore, they requested 30 additional minutes to respond to any objections or observations concerning an issue relate to the proper conduct of the proceedings which might be raised by either party pursuant to rule 122 of the Rules.

⁵ [ICC-02/04-01/05-539](#).

⁶ Email on 18 June 2025, at 14:53.

⁷ Email on 8 July 2025, at 15:35.

⁸ Email from appointed CLRV on 8 July, at 15:28.

⁹ Email on 8 July 2025, at 15:58.

10. On 10 July 2025, the Defence requested, by way of email, confirmation as regards the extension of rights of audience to two Defence team members other than the assigned counsel.¹⁰

11. On 11 July 2025, the Defence informed the Chamber, by way of email and pursuant to the Decision on Time Limits, that it does not intend to submit any requests pertaining to other matters arising from the proceedings leading up to the confirmation of charges hearing.¹¹

II. DETERMINATION

12. The Chamber recalls the principle of fairness which encompasses the notion of equality of arms, as well as rule 122(8) of the Rules which mandates that the Defence should have the last word. In order to ensure expeditious and efficient proceedings, the oral submissions of the parties and participants must be concise in nature, and repetition of any arguments set out previously should be avoided. Final observations are to be used to respond to arguments and questions raised during the hearing and may not include new arguments.

13. As to the time for the presentation of oral arguments on the merits, the Chamber notes that the Prosecution already had the opportunity to present its case to the Chamber in writing, by submitting their Document Containing the Charges¹² and the Pre-Confirmation Brief.¹³ The Chamber has taken note of the Defence's submission to the effect that they would not require more than two hours and that they do not intend to present any evidence. Since the hearing will be the first opportunity for the Defence to present its arguments on the merits of the case, the Chamber considers it appropriate to allot more time for the Defence's final statements, so as to ensure that they will be able to respond to all of the points raised by the Prosecution and the CLRVs, should they so wish.

14. The Chamber further notes that the CLRVs request more time than either party for their submissions. The usual practice in past confirmation hearings has been to allot

¹⁰ Email on 10 July 2025, at 11:07.

¹¹ Email on 11 July, at 12:59.

¹² Amended Document Containing the Charges, 17 April 2024, [ICC-02/04-01/05-591](#).

¹³ Filing ICC-02/04-01/05-593-Conf, public redacted version submitted on 24 April 2025 ([ICC-02/04-01/05-593-Red](#)).

the CLRVs less time than either the Prosecution or the Defence. Nevertheless, the Chamber recalls that, as first stated by Pre-Trial Chamber II in the 23 November 2023 Decision,¹⁴ ‘after almost two decades from the commission of the alleged crimes, confirmation of charges proceedings *in absentia* would provide victims, including those who did not participate in the case of Mr Ongwen, with an opportunity to voice their views and concerns, albeit within the limited framework of pre-trial proceedings’;¹⁵ in its 29 October 2024 Decision, the Chamber noted that, since and as long as Mr Kony remains inaccessible, the confirmation hearing *in absentia* may well prove the only such opportunity.¹⁶ For that reason, the Chamber considers it appropriate to accord the CLRV the same amount of time as the Defence to present their views and concerns.

15. In light of the above, and having taken into account the scope of the case, the Chamber considers it appropriate to grant the parties and participants the following time slots for their respective oral presentations, as follows:

- Prosecution: 30 minutes for their opening statements, 180 minutes to present arguments on the merits and 30 minutes for their final observations;
- Defence: 30 minutes for their opening statements, 60 minutes to present arguments on the merits and 60 minutes for their final observations;
- CLRV: 30 minutes for their opening statements, 60 minutes to present their views and concerns on the merits and 60 minutes for their final observations.

16. The Chamber also recalls that, pursuant to the Decision on Time Limits, parties and participants shall indicate by 22 August 2025 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, pursuant to rule 122(3) of the Rules, and provide by 29 August 2025 any submissions on points of fact and on law, including grounds for excluding criminal responsibility, pursuant to rule 121(9) of the Rules. The

¹⁴ 23 November 2023 Decision, paras 65-66.

¹⁵ 29 October 2024 Decision, para. 71.

¹⁶ 29 October 2024 Decision, para. 90.

Chamber considers it appropriate to set aside 30 minutes in the schedule for any such observations and submissions, before it hears the matter on the merits.

17. Furthermore, the Chamber recalls that the Prosecution shall prepare an abridged version of the DCC in light of the instructions set forth in the Decision on Time Limits, 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. This abridged DCC shall be submitted to the Chamber by email by no later than 2 September 2025; 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.

18. Finally, the Chamber notes the Defence communication to the effect that they do not intend to submit any requests pertaining to other matters arising from the proceedings leading up to the confirmation of charges hearing, without prejudice to any potential submission of any objections and observations pursuant to Rule 122(3) of the Rules.¹⁷ The Chamber clarifies that it will not entertain any other matter arising from the proceedings leading up to the confirmation of charges hearing, except if it is established 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.

III. SCHEDULE

19. The confirmation of charges hearing which will commence on 9 September 2025 will be organised as follows:

¹⁷ Email from the Defence to the Chamber on 11 July 2025, at 12:59.

Tuesday, 9 September 2025**First session: 9:30 – 11:00**

- 9:30 – 10:00: Opening of the hearing by the Chamber and reading of the charges under rule 122(1) of the Rules (30 minutes)
- 10:00 – 10:30: Submissions on objections under rule 122(3) of the Rules, if necessary (30 minutes)
- 10:30 – 11:00: Prosecution's opening statements (30 minutes)

*11:00 – 11:30: Break (30 minutes)***Second session: 11:30 – 13:00**

- 11:30 – 12:00: CLRV's opening statements (30 minutes)
- 12:00 – 12:30: Defence's opening statements (30 minutes)
- 12:30 – 13:00: Prosecution's submissions on the merits (30 minutes)

*13:00 – 14:30: Break (90 minutes)***Third session: 14:30 – 16:00**

- 14:30 – 16:00: Prosecution's submissions on the merits (90 minutes)

Wednesday, 10 September 2025**First session: 10:00 – 11:00**

- 10:00 – 11:00: Prosecution's submissions on the merits (60 minutes)

*11:00 – 11:30: Break (30 minutes)***Second session: 11:30 – 12:30**

- 11:30 – 12:30: CLRV's submissions on the merits (60 minutes)

*13:00 – 14:30: Break (90 minutes)***Third session: 14:30 – 15:30**

- 14:30 – 15:30: Defence's submissions on the merits (60 minutes)

Thursday, 11 September 2025**First session: 9:30 – 11:00**

- 9:30 – 10:00: Prosecution's final observations (30 minutes)
- 10:00 – 11:00: CLRV's final observations (60 minutes)

*11:00 – 11:30: Break (30 minutes)***Second session: 11:30 – 12:30**

- 11:30 – 12:30: Defence's final observations (60 minutes)

20. Any time remaining on Thursday 11 September 2025, including the afternoon session, is reserved in the calendar in the event that any further time is required.

21. The schedule for the confirmation hearing is subject to change if warranted by developments in the proceedings, as deemed necessary by the Chamber. Moreover, for the sake of efficiency, in the event that a party or participant does not fully utilise the time allotted to it in the schedule, the next presentation shall commence, even if that presentation is scheduled for the following session or day. The parties and participants therefore must be able to present their submissions at any time. In the event that the parties wish to use audio or video material, they must liaise with the Registry ahead of time.

IV. OTHER PROCEDURAL MATTERS: RIGHT OF AUDIENCE

22. At the 23 July 2024 Status Conference, counsel for Mr Kony requested authorisation for other members of the Defence team to make specific submissions or to be replaced by certain members of the Defence team in his absence at any hearing before the Chamber.¹⁸

23. The Chamber authorises the Defence to proceed in this manner under the understanding that counsel for Mr Kony bears the ultimate responsibility for any submissions made by another member of the Defence team.

¹⁸ 23 July 2024 Status Conference, [ICC-02-04-01-05-T-013-Red-ENG](#), pp. 13-18.

FOR THESE REASONS, THE CHAMBER HEREBY

ADOPTS the schedule and directions for the confirmation of charges hearing as set out above.

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, 17 July 2025.

At The Hague, The Netherlands