

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 11 July 2007

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Ekaterina Trendafilova

Registrar: Mr Bruno Cathala

**SITUATION IN UGANDA
IN THE CASE OF
THE PROSECUTOR
v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO, RASKA LUKWIYA,
DOMINIC ONGWEN**

Public

Decision to Terminate the Proceedings Against Raska Lukwiya

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Ms Christine Chung, Senior Trial Lawyer
Mr Eric MacDonald, Trial Lawyer

Counsel ad hoc for the defence

Ms Michelyne C. Saint-Laurent

Office of Public Counsel for victims

Ms Paolina Massidda

PRE-TRIAL CHAMBER II (“the Chamber”) of the International Criminal Court (“the Court”);

NOTING the warrant of arrest for **Raska LUKWIYA** issued by the Chamber on 8 July 2005;¹

NOTING the Requests for Arrest and Surrender of **Raska LUKWIYA** to the Democratic Republic of the Congo,² the Republic of Sudan,³ dated 27 September 2005, and the Republic of Uganda,⁴ dated 8 July 2005;

NOTING the Prosecutor’s “Submission of Information Regarding Raska Lukwiya”, dated 14 August 2006⁵ and the forensic report by the Netherlands Forensic Institute of the Dutch Ministry of Justice dated 5 October 2006, prepared at the request of the Government of Uganda and the Prosecutor, which report concludes that there was “very strong evidence that the human remains of the person killed on 12 August 2006 originate from Raska Lukwiya”;⁶

NOTING the “Notice Confirming the Death of Raska Lukwiya” dated 30 October 2006,⁷ in which the Government of Uganda states that the results of the DNA testing “coupled with the identification of the body by Lukwiya’s family members and former LRA members as well as the confirmation from the LRA command itself, certify that Raska Lukwiya was killed”;⁸

¹ ICC-02/04-01/05-55.

² ICC-02/04-01/05-34-US-Exp.

³ ICC-02/04-01/05-39-US-Exp.

⁴ ICC-02/04-01/05-14-US-Exp.

⁵ ICC-02/04-01/05-97.

⁶ ICC-02/04-01/05-126-US, Annex.

⁷ ICC-02/04-01/05-126-US, Annex.

⁸ See the Annex of “*Informations sur le décès de Raska Lukwiya*”, ICC-02/04-01/05-126-US-Anx, 2 November 2006, p.2.

NOTING the Registrar's communication of the above-mentioned letter to the Chamber on 2 November 2006;⁹

NOTING the information provided in the Registrar's Report dated 5 March 2007,¹⁰ further to which the Registrar requested a death certificate from the Ugandan authorities;

NOTING the "Prosecution's Requests that the Warrant of Arrest for Raska Lukwiya Be Withdrawn and Rendered Without Effect Because of His Death," dated 22 March 2007,¹¹ in which the Prosecutor states that "[i]t is axiomatic that the death of a person named in a warrant or in an indictment terminated the criminal proceedings relating to that individual";¹²

NOTING the Registrar's "*Versement au dossier du certificat de décès de Raska Lukwiya*," dated 25 June 2007,¹³ whereby the Registrar registered the death certificate of **Raska LUKWIYA** in the record of the proceedings;

NOTING Death Certificate no. 29142, issued on 12 June 2007 by Bisereko Kyomuhendo, Registrar-General of Births and Deaths, transmitted by the Republic of Uganda on 19 June 2007 and filed by the Registrar on 25 June 2007 which certifies that **Raska LUKWIYA**, died on 12 August 2006, in Mucwini, Kitgum District, Northern Uganda;

NOTING article 25, paragraph 1 of the Rome Statute, which states that, "[t]he Court shall have jurisdiction over natural persons pursuant to this Statute";

⁹ ICC-02/04-01/05-126-US.

¹⁰ ICC-02/04-01/05-217-US-Exp.

¹¹ ICC-02/04-01/05-229-US-Exp.

¹² ICC-02/04-01/05-230, para.11.

¹³ ICC-02/04-01/05-247.

NOTING the relevant case-law of the *ad hoc* tribunals, in particular of the International Criminal Tribunal for the former Yugoslavia;¹⁴

RECALLING regulation 42 of the Regulations of the Court, according to which “protective measures once ordered in any proceedings in respect of a victim or witness shall continue to have full force and effect in relation to any other proceedings before the Court and shall continue after the proceedings have been concluded, subject to revision by a Chamber”;

CONSIDERING that the purpose of criminal proceedings is to determine individual criminal responsibility and that the Chamber cannot exercise jurisdiction over a person who has deceased;

CONSIDERING that the death of a person requires that proceedings against that person be terminated, further to which all relevant documents are rendered without effect;

FOR THESE REASONS,

TERMINATES the proceedings against **Raska LUKWIYA**;

ORDERS the Registrar to notify the Democratic Republic of the Congo, the Republic of Sudan and the Republic of Uganda of the termination of proceedings against **Raska LUKWIYA**.

¹⁴ ICTY, *Prosecutor v. Janko Bobetko*, Order Terminating Proceedings Against Janko Bobetko, 24 June 2003 (IT-02-62-I); *Prosecutor v. Momir Talić*, Order Terminating Proceedings Against Momir Talić, 12 June 2003 (IT-00-36/1-T).

Done in English and French, the English version being authoritative.

Mauro Politi

Judge Mauro Politi
Presiding Judge

Fatoumata Dembele Diarra

Judge Fatoumata Dembele Diarra

Ekaterina Trendafilova

Judge Ekaterina Trendafilova

Dated this 11th day of July 2007

At The Hague, The Netherlands