



The Hague Case Law: Latest Developments

Rosa Möhrlein^{1,2}

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Since the publication of the last edition of The Hague Case Law,¹ there have not been many new cases decided by the international courts and tribunals based in The Hague, with the exception of the International Court of Justice (ICJ or the Court). This issue covers three cases from the ICJ, all of which concerned orders on provisional measures. For the sake of completeness, two decisions from the Pre-Trial Chamber of the International Criminal Court (ICC) are included: one on the Prosecution's request to hold a confirmation of charges hearing against Mr Joseph Kony in his absence, and one in which it terminated the proceedings against Vincent Otti.

International Court of Justice

(1) *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Order on Provisional Measures, 1 December 2023

In the previous edition, the Judgment on Preliminary Objections in this case of 6 April 2023 was discussed, in which the Court rejected Venezuela's preliminary objections.² In October 2023, however, Guyana filed a request for provisional measures at the ICJ. On 1 December 2023, the ICJ delivered its Order on provisional measures.

Background

The most relevant facts were described in the previous issue of The Hague Case Law. To briefly summarize, this case was instituted in 2018 due to a disagreement

¹ NILR (2023) 70:307–321.

² *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Jurisdiction of the Court, Judgment, ICJ Reports 2020, p. 493, para. 138.

✉ Rosa Möhrlein
r.mohrlein@uva.nl

¹ Coordinator Amsterdam Law Practice, University of Amsterdam, Amsterdam, The Netherlands

² PhD Candidate in Public International Law, Radboud University Nijmegen, Nijmegen, The Netherlands

over which country has sovereignty over the area called Guayana Esequiba, a territory that covers about two-thirds of Guyana and which is known for its mineral wealth and where many oil reserves have been found since 2015. Although an arbitral award in 1899 determined that Guyana had sovereignty over the area, Venezuela contested the outcome of this award on several grounds.

On the basis of the 1966 Geneva Agreement between Venezuela and British Guyana, the UN Secretary-General decided in 2018 to refer the dispute to the ICJ.³ In October 2023, the President of Venezuela, Nicolás Maduro, announced a national consultative referendum on the issue, which the Venezuelan Supreme Tribunal of Justice approved in November.⁴ Out of a total of six questions, these are the most relevant to the case:

- (1) Do you agree to reject, by all means in accordance with the Law, the line fraudulently imposed by the 1899 Paris Arbitral Award, that seeks to strip us of our Guayana Esequiba?
- (3) Are you in agreement with the historic position of Venezuela of not recognizing the jurisdiction of the International Court of Justice to resolve the Guayana Esequiba territorial controversy?
- (5) Are you in agreement with the creation of a Guayana Esequiba State and for an accelerated plan to be developed for comprehensive attention to the present and future population of that territory that would include, among other things, the granting of Venezuelan citizenship and identity cards, in conformity with the Geneva Agreement and International Law, consequently incorporating said State on the map of Venezuelan territory?

As far as the wording of the questions is concerned, it is clear that the first question is far from neutral. The fifth question raises the issue of annexation. In its request for provisional measures, Guyana asked the Court to halt the referendum, in particular questions 1, 3 and 5, in order to prevent the dispute from escalating.

Order on Provisional Measures

The Court did not have to deal with the question of jurisdiction as it had already ruled in April 2023 that it had jurisdiction over the case. Guyana argued that it was seeking the protection of its right to the territory awarded to it by the 1899 Award and that Venezuela's referendum would threaten that right. The ICJ concluded that Guyana's right was plausible because part of Guyana's territory was in dispute.⁵ The Court then turned to the link between the rights claimed and the measures sought, which had not been explicitly addressed by the parties before it.⁶ Nevertheless, the

³ Art. IV of the Agreement to resolve the controversy over the frontier between Venezuela and British Guiana. Signed at Geneva, on 17 February 1966.

⁴ See: <http://historico.tsj.gob.ve/decisiones/scon/octubre/329789-1469-311023-2023-23-1081.HTML>.

⁵ *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Order on Provisional Measures, 1 December 2023, para. 23.

⁶ *Ibid.*, para. 24.

ICJ held that the measure sought by Guyana was linked to the right claimed, namely to ensure that Venezuela does not ‘take any actions that are intended to prepare or allow for the exercise of sovereignty or de facto control over any territory that was awarded to British Guiana in the 1899 Award’.⁷

The criterion of urgency means that ‘there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision’.⁸ In dealing with this requirement, the Court found that the fifth question of the referendum was in fact aimed at the creation of a new State, to which citizens would be granted Venezuelan citizenship and which would then be incorporated into Venezuelan territory.⁹ Moreover, since the Supreme Tribunal of Justice had upheld the constitutionality of the questions put, and since the statements communicated by the officials had been made with the aim of gaining control and administration of the disputed territory, there was urgency.¹⁰

After noting that it may take measures other than those requested and that the granted measures do not have to be identical to the ones requested,¹¹ the ICJ ordered, first, that Venezuela should ‘refrain from taking any action’ which would change the situation that Guyana exercises control over the region.¹² The second measure ordered by the Court was that the parties should do everything in order to prevent the situation from aggravating.¹³ These measures were adopted unanimously.¹⁴

The ICJ did not state anything about the validity of the consultative referendum, despite the questions that it had posed to the parties during the proceedings on the legal status of that referendum.¹⁵ It also did not address Venezuela’s argument that the information about the referendum had already been known to Guyana for two years.¹⁶

⁷ Ibid., para. 25.

⁸ Ibid., para. 28.

⁹ Ibid., para. 34.

¹⁰ Ibid., para. 37.

¹¹ Ibid., paras. 39–40.

¹² Ibid., para. 41.

¹³ Ibid., para. 43.

¹⁴ Ibid., para. 45. Judge Sebutinde attached a declaration to the Court’s Order, while Judge Robinson and Judge *ad hoc* Couvreur appended a separate opinion.

¹⁵ During the proceedings, the ICJ posed three questions to both parties: (1) Has the Supreme Court of Venezuela ruled on the validity of the referendum questions? (2) Will the referendum occur on 3 December? (3) Do referenda in Venezuela carry binding force? *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Order on Provisional Measures, 1 December 2023, para. 9. See also: Milosz Gapsa, ‘Guyana v Venezuela: Intriguing Pleadings in an (In)conspicuous Case’, *EJIL:Talk!*, 30 November 2023, available at: <https://www.ejiltalk.org/guyana-v-venezuela-intriguing-pleadings-in-an-inconspicuous-case/>.

¹⁶ *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, para. 32.

Recent Developments

The results of the referendum were announced on 3 December. Almost 95% of the votes were in favour of the questions put.¹⁷ According to the National Electoral Council, more than 10.5 million ballots were cast out of a population of 20 million eligible voters.¹⁸ Questions have been raised about the voter turnout and the credibility of the final results.¹⁹ It remains to be seen how these results will be implemented and how they will affect this case before the ICJ.

(2) *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Order on Provisional Measures, 17 November 2023

This case has been before the ICJ since 2021 and has been preceded by four other Orders on provisional measures. Sovereignty over the Nagorno-Karabakh region has been at the centre of a violent conflict between both Armenia and Azerbaijan starting a few years before their independence from the Soviet Union in 1991.²⁰

Background to the Procedure

In 2021, Armenia instituted proceedings against Azerbaijan concerning alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). After years of hostilities, the situation changed dramatically when on the 19th of September 2023, Azerbaijan carried out a military attack on the region with the aim to ‘restore its sovereignty’.²¹ According to Azerbaijan, the military actions were in fact ‘local counter-terrorism measures in its sovereign territory to respond to an acute security threat in Garabagh’.²² According to the UN, more than 100,000 Armenians fled the region as a result of the military measures.²³

On the 28th of September, Armenia requested provisional measures and in its submission it asked the Court to adopt ten different provisional measures, including that Azerbaijan should ‘refrain from taking any actions directly or indirectly aimed at or having the effect of displacing the remaining ethnic Armenians from

¹⁷ The remaining questions were: (2) Do you support the 1966 Geneva Agreement as the only valid legal instrument for reaching a practical solution satisfactory to Venezuela and Guyana, in relation to the controversy over the Guayana Esequiba territory? (4) Do you agree to oppose, by all means, in conformity with the Law, Guyana’s pretension of unilaterally making use of a sea pending delimitation, illegally and in violation of international law?

¹⁸ See e.g., ‘Venezuela referendum result: voters back bid to claim sovereignty over large swath of Guyana’, *The Guardian*, 4 December 2023, available at: <https://www.theguardian.com/world/2023/dec/04/venezuela-referendum-2023-results-guyana-region-claim-succeeds-sovereignty-essequibo>.

¹⁹ *Ibid.*

²⁰ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Order on Provisional Measures, 17 November 2023, para. 23.

²¹ See for example Azerbaijan’s statement in para. 44 of the Order.

²² *Ibid.*, para. 26.

²³ *Ibid.*

Nagorno-Karabakh, or preventing the safe and expeditious return to their homes of persons displaced in the course of the recent military attack [...] and to ‘withdraw all military and law-enforcement personnel from all civilian establishments in Nagorno-Karabakh’.²⁴

Court’s Analysis

Since this constituted the fifth request on provisional measures in this conflict between the two countries, the Court first had to satisfy itself that the request was based on new circumstances.²⁵ As the first request concerned ‘the treatment by Azerbaijan of Armenian prisoners of war, hostages and other detainees in its custody who were taken captive during the September–November 2020 hostilities’ and the third request concerned ‘the alleged blockade by Azerbaijan, as of 12 December 2022, of the Lachin Corridor’, the Court concluded that the circumstances were indeed different from those in the other cases.²⁶

The Court did not reconsider its earlier conclusion that it had jurisdiction on the basis of the CERD.²⁷ It then addressed the question of whether the rights invoked by Armenia were at least plausible,²⁸ and found that they were, especially for the ‘persons not to find themselves compelled to flee their place of residence for fear that they will be targeted because they belong to a protected group under CERD, and the right of those persons to be guaranteed a safe return’.²⁹ With regard to the link between the measures requested and the rights invoked, the Court confirmed that such a link existed, in particular ‘between those rights and the measure requiring Azerbaijan to prevent the displacement of the remaining persons of Armenian national or ethnic origin from Nagorno-Karabakh, to ensure the right of those persons displaced to a safe return to their homes, and to permit those who wish to leave Nagorno-Karabakh to do so without any hindrance’.³⁰

The ICJ then turned to the requirement of urgency, which means that ‘acts susceptible of causing irreparable prejudice can “occur at any moment” before the Court makes a final decision on the case’.³¹ Armenia argued that the lives of civilians and their forced displacement from their homes proved that irreparable harm had already occurred and that it was still ongoing.³² Azerbaijan, on the other hand, simply denied that the safety of the civilian population in the enclave was at risk and

²⁴ *Ibid.*, para. 15(2)–(3).

²⁵ *Ibid.*, para. 27.

²⁶ *Ibid.*, para. 29. In the second and fourth Orders on provisional measures, the Court decided not to indicate new provisional measures. *Ibid.*, paras. 7 and 12.

²⁷ *Ibid.*, para. 30.

²⁸ *Ibid.*, para. 31.

²⁹ *Ibid.*, para. 40.

³⁰ *Ibid.*, para. 45. Note that Azerbaijan only contested Armenia’s arguments on the issues of cutting off public utilities, taking punitive actions against political and military representatives and confiscating and destroying civil documents.

³¹ *Ibid.*, para. 48.

³² *Ibid.*, paras. 50–51.

argued that it was not its own actions, but the speech by the Armenian Prime Minister that had been the catalyst for the increasing fear among the civilian population and the reason for their departure from the enclave.³³ The Court took into account the ‘long-standing exposure of the population of Nagorno-Karabakh to a situation of vulnerability and social precariousness’, and the fact that ‘the residents of this region have been severely impacted by the long-lasting disruption of the connection between Nagorno-Karabakh and Armenia via the Lachin Corridor’.³⁴ It then concluded that ‘individuals forced to leave their own place of residence without the possibility of return could be subject to a serious risk of irreparable prejudice’.³⁵

In order to formulate the provisional measures in this case, the Court first turned to the commitments made by Azerbaijan during the public hearings. On 12 October, Azerbaijan had given ‘formal undertakings’ which, according to Azerbaijan, ‘were comprehensive in their protection of the alleged rights’.³⁶ They were included in the Order, and concerned, for example, the obligation to ensure, ‘without distinction as to national or ethnic origin’, the security of residents in Garabagh, ‘including their safety and humanitarian needs [...]’; ‘[t]he right of the residents of Garabagh to freedom of movement and residence [...]’; and ‘[t]he protection of the property of persons who have left Garabagh’.³⁷

The ICJ emphasized that ‘unilateral declarations can give rise to legal obligations and that interested States may take cognizance of unilateral declarations and place confidence in them, and are entitled to require that the obligation thus created be respected’.³⁸ It therefore concluded that these commitments were binding and created legal obligations for Azerbaijan.³⁹ Although the Court recognized that some of these measures addressed the concerns raised by Armenia in its request for provisional measures and contributed ‘towards mitigating the imminent risk of irreparable prejudice resulting from the operation’, they did not ‘remove the risk entirely’.⁴⁰ The Court, therefore, considered it necessary to indicate additional provisional measures.

Adopted Measures

By thirteen votes to two,⁴¹ the ICJ added three measures to Azerbaijan’s commitments, that it should ‘(i) ensure that persons who have left Nagorno-Karabakh after 19 September 2023 and who wish to return to Nagorno-Karabakh are able to do so in a safe, unimpeded and expeditious manner; (ii) ensure that persons who remained in Nagorno-Karabakh after 19 September 2023 and who wish to depart are able to

³³ Ibid., para. 52.

³⁴ Ibid., para. 55.

³⁵ Ibid., para. 58.

³⁶ Ibid., para. 35.

³⁷ Ibid., para. 61.

³⁸ Ibid., para. 62, with reference to *Nuclear Tests (Australia v. France)*, Judgment, ICJ Reports 1974, p. 268, para. 46.

³⁹ Ibid., para. 62.

⁴⁰ Ibid., para. 64.

⁴¹ Judge Yusuf and Judge *ad hoc* Koroma dissenting.

do so in a safe, unimpeded and expeditious manner; and (iii) ensure that persons who remained in Nagorno-Karabakh after 19 September 2023 or returned to Nagorno-Karabakh and who wish to stay are free from the use of force or intimidation that may cause them to flee'.⁴² The ICJ also ordered Azerbaijan 'to protect and not to destroy registration, identity and/or private property documents and records found in Garabagh'.⁴³ The final measure ordered Azerbaijan to submit a report to the Court within 8 weeks of the date of the Order to make concrete 'the steps taken to give effect to the provisional measures indicated and to the undertakings made by the Agent of Azerbaijan'.⁴⁴ Calculated from the date of the Order, the deadline for the submission of the report was 12 January 2024. Even if Azerbaijan were to comply with these measures and adopt them in good faith, the situation on the ground has already changed dramatically, and the original situation cannot be restored in any foreseeable way.

(3) ***Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic), Order on Provisional Measures, 16 November 2023***

This case is one of the consequences of the step taken by the Dutch government in 2020 to hold the Syrian government accountable for gross human rights violations.⁴⁵ Since the outbreak of the civil war in 2011, numerous reports from international organizations, such as the International Impartial and Independent Mechanism (IIM), the UN's investigative body for Syria,⁴⁶ have documented serious human rights violations in the country. After years of negotiations between the Netherlands and Syria to reach an agreement, and an attempt to resolve the issue through arbitration,⁴⁷ on 8 June 2023, the Netherlands and Canada instituted proceedings before the ICJ against Syria regarding alleged violations of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Non-participation by Syria

The Applicants requested the Court to adjudge and declare, *inter alia*, that Syria should immediately take effective measures to stop and prevent all acts amounting to torture and other cruel, inhuman or degrading treatment.⁴⁸ Despite initially requesting

⁴² Ibid., para. 69.

⁴³ Ibid., para. 70.

⁴⁴ Ibid., para. 71.

⁴⁵ Canada joined this Dutch initiative in 2021. See e.g., the official press report of the Government of the Netherlands: 'The Netherlands and Canada to bring case against Syria before International Court of Justice', 12 June 2023, <https://www.government.nl/latest/news/2023/06/12/the-netherlands-and-canada-to-bring-case-against-syria-before-international-court-of-justice>.

⁴⁶ Established by General Assembly Resolution adopted on 21 December 2006, UN Doc. A/RES/71/248.

⁴⁷ On the basis of Art. 30 (1) of the CAT.

⁴⁸ *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*, Order on Provisional Measures, 16 November 2023, para. 5.

that the case be postponed to facilitate its participation, Syria announced on 9 October, just one day before the start of the oral hearings, that it would not attend the hearing and would submit its views to the ICJ in a letter.⁴⁹ The Court expressed its regret at this decision, as the non-participation of a party may have a negative impact on the ‘sound administration of justice’.⁵⁰ The ICJ emphasized that the validity of the judgment is not affected by the non-appearance of a party and that it will take into account Syria’s position as communicated in a letter sent to the Court.⁵¹

Jurisdiction, Standing, Plausibility, Irreparable Harm and Urgency

Jurisdiction in the application was based on Article 36(1) of the ICJ Statute and Article 30(1) of the CAT. To establish *prima facie* jurisdiction, the Court first examined whether a dispute existed relating to the interpretation or application of the CAT and whether the alleged violations, as claimed by the Applicants, fell within the scope of the CAT *ratione materiae*. The Court concluded that both of these requirements were met.⁵² The ICJ came to the same conclusion regarding the procedural preconditions of Article 30(1) of the CAT, such as engaging in genuine negotiations and the attempt at arbitration.⁵³

With regard to the standing of the Applicants, they based their position on the *erga omnes* nature of the obligations under the CAT. Referring to the *Obligations to Prosecute or Extradite* case,⁵⁴ the Court also quickly rejected Syria’s argument that the Netherlands and Canada had no right to raise the issue before the Court since it concerned individual obligations of States.⁵⁵

In order to determine whether the rights invoked were plausible, the Court compared the CAT with the CERD, noting that ‘there is a correlation between respect for individual rights enshrined’ in such Conventions, ‘the obligations of States parties thereto and the right of States parties to seek compliance therewith’.⁵⁶ The Court also agreed that there was a link between the provisional measures sought and the preservation of the rights in the CAT.⁵⁷

Regarding the risk of irreparable prejudice, the Court addressed the question whether the situation indeed carried such a risk and that the matter was urgent.⁵⁸ The Court relied in particular on the report from the Independent International Commission of Inquiry on the Syrian Arab Republic (the Commission)⁵⁹ of 11 March 2021

⁴⁹ Ibid., para. 11.

⁵⁰ Ibid., paras. 16–17.

⁵¹ Ibid., para. 19.

⁵² Ibid., paras. 31–32.

⁵³ Ibid., paras. 42–43.

⁵⁴ *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, ICJ Reports 2012 (II), p. 449, para. 68.

⁵⁵ Ibid., paras. 49–50.

⁵⁶ Ibid., para. 57. With reference to *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, Order of 7 December 2021, ICJ Reports 2021, p. 382, para. 57.

⁵⁷ Ibid., para. 62.

⁵⁸ Ibid., para. 71.

⁵⁹ Established by a Resolution from the Human Rights Council in 2011.

in which several of the alleged violations by Syria were described as ‘violations and abuses [...] with such consistency [...] that it is impossible to claim that they were committed without the knowledge of the relevant chains of command’.⁶⁰ In addition, in February 2023, the Commission stated that it had reason to believe that Syria ‘continued to commit acts of murder, torture and ill-treatment against persons in detention’.⁶¹

Adopted Measures

By thirteen votes to two, the ICJ ordered two provisional measures concerning Syria’s broader obligation to ‘take all measures within its power to prevent acts of torture [...] and ensure that its officials [...] do not commit such acts’.⁶² In addition, Syria should ‘take effective measures to prevent the destruction and ensure the preservation of any evidence related to the allegations’.⁶³

Although the provisional measures requested by the Netherlands and Canada were granted, and Human Rights Watch described the decision as a ‘milestone’,⁶⁴ there is little to be hopeful about in this situation, as the chances of Syria actually implementing the measures are rather slim.⁶⁵ At the same time, the fact that States seek to hold other States accountable for the most heinous crimes under international law can be seen as a way to deter the commission of these crimes and to show the victims involved that they are not forgotten. It can also promote the development of international law, for example because the Court has accepted, not only for CERD but also for CAT, that other States may have the right to seek compliance with these treaties.

International Criminal Court

(1) *Prosecutor v. Joseph Kony, Decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence, Pre-Trial Chamber II, 23 November 2023*

A year after the Request from the Office of the Prosecutor to hold a hearing on the confirmation of charges against Joseph Kony in his absence, the Pre-Trial Chamber ordered the ICC Prosecutor on 23 November last year to go ahead and file a

⁶⁰ Ibid., para. 72.

⁶¹ Ibid., para. 73. This was also confirmed in July and August 2023.

⁶² Ibid., para. 83(1). Vice-President Gevorgian and Judge Xue dissenting.

⁶³ Ibid., para. 83(2).

⁶⁴ Human Rights Watch, ‘World Court Rules against Syria in Torture Case’, 16 November 2023, <https://www.hrw.org/news/2023/11/16/world-court-rules-against-syria-torture-case>.

⁶⁵ Human Rights Watch, ‘World Court Rules against Syria in Torture Case’, 16 November 2023, <https://www.hrw.org/news/2023/11/16/world-court-rules-against-syria-torture-case>.

public document with the charges. At a later stage, the Chamber will decide whether a hearing on the confirmation of the charges will be held *in absentia*.⁶⁶ The Judges also confirmed that Mr Kony is ‘a person who cannot be found’.⁶⁷ Mr Kony is the President of the Lord’s Resistance Army (LRA), an armed group that has been operating against the Government of Uganda since 1987, instigating attacks against the civilian population and carrying out a ‘cycle of violence and established a pattern of “brutalization of civilians” by acts including murder, abduction, sexual enslavement, mutilation[...]’.⁶⁸ Kony is therefore suspected of 12 counts of crimes against humanity and 21 counts of war crimes committed in Uganda between 2004 and 2005. Despite a possible confirmation of the charges in the near future, a trial is unlikely to take place, as it requires a suspect to be present before the Court.⁶⁹ The Court therefore acknowledged that its ‘ability to fully realize the objectives of the Statue and address the victims’ interests in justice and accountability’ is limited.⁷⁰ However, a confirmation of charges against Mr Kony would, according to the ICC, be a reminder to the international community ‘that he is a wanted fugitive and may reinvigorate efforts to locate him and bring him before the Court’.⁷¹

(2) ***Prosecutor v. Joseph Kony and Vincent Otti, Decision terminating the proceedings against Vincent Otti, Pre-Trial Chamber II, 17 November 2023***

Increased efforts to locate Mr Kony and bring justice to his victims are particularly urgent following the ICC’s decision on 17 November last year to terminate proceedings in the case of the former Vice-Chairman and Second-in-Command of the LRA, Vincent Otti. A year earlier, in December 2022, the Pre-Trial Chamber had rejected the request to terminate proceedings following information pointing at Mr Otti’s death, because of a lack of evidence.⁷² Newly gathered available evidence now indeed pointed to Mr Otti being killed in 2007 in a remote area of the Democratic Republic of Congo, which is why the Pre-Trial Chamber this time agreed with the Prosecutor to terminate the proceedings and to declare that Mr Otti is no longer alive.⁷³ Mr Otti was suspected of 11 counts of crimes against humanity and 21 counts of war crimes committed in Uganda after 1 July 2002.

⁶⁶ *Prosecutor v. Joseph Kony*, Decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence, Pre-Trial Chamber II, 23 November 2023.

⁶⁷ *Ibid.*, para. 70.

⁶⁸ Warrant of Arrest for Joseph Kony issued on 8 July 2005, as amended on 27 September 2005, Pre-Trial Chamber II, para. 5.

⁶⁹ *Prosecutor v. Joseph Kony*, Decision on the Prosecution’s request to hold a confirmation of charges hearing in the Kony case in the suspect’s absence, Pre-Trial Chamber II, 23 November 2023, para. 66.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*, para. 67.

⁷² *Prosecutor v. Joseph Kony and Vincent Otti*, Decision terminating the proceedings against Vincent Otti, Pre-Trial Chamber II, 17 November 2023, para. 3.

⁷³ *Ibid.*, para. 5.

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