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No. ICC-02/04-01/05

Date: 12 August 2024

PRE-TRIAL CHAMBER III

Before:

Judge Althea Violet Alexis-Windsor, Single Judge

SITUATION IN THE REPUBLIC OF UGANDA

IN THE CASE OF

THE PROSECUTOR v. JOSEPH KONY

Public

Decision on the Kony Defence Request for Reclassification of ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463 SECRET-Exp (ICC-02/04-01/05-509) and other reclassification matters

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

The Office of the Prosecutor

Mr Karim Khan
Mr Mame Mandiaye Niang
Ms Leonie von Braun

Counsel for Mr Kony

Mr Peter Haynes

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel
for Victims**

Ms Paolina Massidda
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**The Office of Public Counsel
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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

JUDGE ALTHEA VIOLET ALEXIS-WINDSOR, acting as Single Judge on behalf of Pre-Trial Chamber III of the International Criminal Court (the ‘ICC’ or ‘Court’),¹ issues this ‘Decision on the Kony Defence Request for Reclassification of ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463-SECRET-Exp and other reclassification matters’, pursuant to article 57(3)(c) of the Rome Statute (the ‘Statute’) and rule 81 of the Rules of Procedure and Evidence (the ‘Rules’).

I. PROCEDURAL HISTORY

1. On 23 November 2023, following a report of the Registry (ICC-02/04-01/05-459-SECRET-Exp), which was later amended (ICC-02/04-01/05-463-SECRET-Exp),² Pre-Trial Chamber II found that (i) Mr Kony was a person who could not be found; (ii) all reasonable steps had been taken to secure his appearance before the Court; and (iii) under the prevailing circumstances, there was cause to hold a confirmation hearing against Mr Kony, in his absence (the ‘23 November 2023 Decision’).³
2. On 2 May 2024, the Single Judge, *inter alia*, authorised the Registry to start a procedure for the selection of Counsel for Mr Kony, and ordered counsel for Mr Kony, once appointed, to make observations on, *inter alia*, the 23 November 2023 Decision (the ‘2 May 2024 Decision’).⁴
3. On 21 June 2024, following a report from the Registry⁵ and a subsequent decision from the Single Judge,⁶ Mr Peter Haynes was appointed as counsel for Mr Kony (the ‘Defence’).⁷

¹ [Decision on the designation of a Single Judge](#), 15 March 2024, ICC-02/04-01/05-487, public.

² Registry’s Report on the measures to locate Joseph Kony, 30 March 2023, ICC-02/04-01/05-459-SECRET-Exp, secret and *ex parte*, only available to the Registry and the Prosecution, with annex similarly classified; Registry’s Report on the measures to locate Joseph Kony and notify him of the Warrant of Arrest, 8 May 2023, ICC-02/04-01/05-463-SECRET-Exp, secret and *ex parte*, only available to the Registry and the Prosecution, with annexes I, II and III similarly classified.

³ Pre-Trial Chamber II, [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.

⁴ [Decision on the Procedure for Appointing Counsel](#), ICC-02/04-01/05-499, public (‘Decision on Counsel Appointment Procedure’), para. 27.

⁵ [Registry’s Report on the implementation of “Decision on the Procedure for Appointing Counsel” dated 2 May 2024 \(ICC-02/04-01/05-499\)](#), 14 June 2024, ICC-02/04-01/05-501, public, with public Annex I and public redacted Annex II.

⁶ [Order to Appoint Counsel](#), 19 June 2024, ICC-02/04-01/05-502, public.

⁷ [Notification of the Appointment of Mr Peter Haynes KC as Counsel for Mr Joseph Kony](#), ICC-02/04-01/05-503, public, with confidential annex II and public annexes I, III and IV.

4. On 9 July 2024, the Defence submitted the ‘Kony Defence Request for Reclassification of ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-2047-SECRET-Exp’ (the ‘Defence Request’ or ‘Request’),⁸ requesting the Chamber to reclassify the aforementioned documents from secret *ex parte* to public, public redacted or confidential redacted, as may be necessary.
5. On 11 July 2024, the Single Judge (i) shortened the time limit to file responses to the Defence Request until 15 July 2024; (ii) clarified that the correct document number of the filing referred to as ICC-02/04-01/05-2047-SECRET-Exp in the Defence Request was ICC-02/04-01/05-463-SECRET-Exp; and (iii) instructed the Registry to provide its position regarding the redactions to be applied to filings ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463-SECRET-Exp and their annexes in light of the Request.⁹
6. On 16 July 2024, following the Single Judge’s decision granting a request for extension to file responses,¹⁰ the Legal Representatives of the Victims (the ‘LRVs’) informed the Single Judge that it supported the Request.¹¹
7. On the same day, the Prosecution filed a response to the Request.¹²
8. On 16 July 2024, the Registry proposed redactions for ICC-02/04-01/05-459-SECRET-Exp and its annex, as well as for ICC-02/04-01/05-463-SECRET-Exp and its annexes I and III (the ‘Registry Proposed Redactions’).¹³
9. On 18 July 2024, the Registry requested the reclassification as confidential of the transcripts of hearing ICC-02/04-01/05-T-006 and ICC-02/04-01/05-T-011 as well as the authorisation to file a confidential redacted version of the transcript of hearing ICC-02/04-01/05-T-007 (the ‘Registry Request’).¹⁴
10. On 19 July 2024 and 22 July 2024, respectively, the Prosecution requested that filings ICC-02/04-01/05-157-Conf-Exp,¹⁵ ICC-02/04-01/05-121-US-Exp, ICC-02/04-

⁸ [ICC-02/04-01/05-509](#), public, with confidential annex A.

⁹ Email from Pre-Trial Chamber III to the Registry, 11 July 2024, at 09:22.

¹⁰ Email from Pre-Trial Chamber III to the Registry, 12 July 2024, at 15:44.

¹¹ Email from the LRVs to Pre-Trial Chamber II, 16 July 2024, at 09:22.

¹² [Prosecution’s Response to Defence Request for Reclassification of two Registry Reports \(ICC-02/04-01/05-509\)](#), ICC-02/04-01/05-510, public (‘Prosecution Response’).

¹³ Email from the Registry to Pre-Trial Chamber III, 16 July 2024, at 18:11.

¹⁴ Email from the Registry to Pre-Trial Chamber III, 18 July 2024, at 15:01.

¹⁵ Email from the Prosecution to Pre-Trial Chamber III, 19 July 2024, at 15:01.

01/05-256-US-Exp and ICC-02/04-01/05-293-US-Exp¹⁶ be reclassified as confidential. The Prosecution asserts that the relevant sections of the Registry have no objections to the requests (the ‘Prosecution Request for Reclassification’).

11. On 29 July 2024, following an order of the Single Judge,¹⁷ the Prosecution provided its observations on the Registry Proposed Redactions (the ‘Observations on Proposed Redactions’)¹⁸, also requesting access to ICC-02/04-01/05-436-SECRET-Exp, ICC-02/04-01/05-437-SECRET-Exp, ICC-02/04-01/05-439-SECRET-Exp and ICC-02/04-01/05-440-SECRET (the ‘Prosecution Request for Access’).¹⁹

II. SUBMISSIONS

12. In its Request, the Defence argues that the reclassification of the two documents is justified as: (i) these filings were central to the 23 November 2023 Decision on which the Defence is asked to provide observations, making it difficult for the Defence to provide meaningful observations on the sufficiency of the measures taken without access to these filings; and (ii) the current classification is no longer either required or proportional, since it was given before counsel was appointed and before the Chamber’s 23 November 2023 Decision, which is public and summarises aspects of these documents. The Defence further requests the reclassification of any other previous or subsequent reports or material relevant to the issue of the measures taken to locate Mr Kony and inform him of the charges and the proposed confirmation hearing.

13. In its response, the Prosecution submits that, while the Defence needs to be in a position to scrutinise the basis of the Chamber’s decision to allow *in absentia* proceedings, a balance should be struck between the need to disclose pertinent information, on one hand, and the obligations of the Prosecution and the Registry to protect their confidential sources, strategic partnerships and fugitives’ tracking operations, on the other hand. The Prosecution adds that exceptions to disclosure under rule 81 of the Rules, where necessary and proportional, have been applied to non-evidentiary items, and that the principles enshrined in these rules apply to information collated in the Registry reports. More specifically, the Prosecution asserts that, since

¹⁶ Email from the Prosecution to Pre-Trial Chamber III, 22 July 2024, at 12:11.

¹⁷ Email from Pre-Trial Chamber III to the Prosecution, 24 July 2024, at 11:42.

¹⁸ Prosecution’s Observations on Proposed Redactions by Registry, ICC-02/04-01/05-512-SECRET-Exp, secret and *ex parte*, only available to the Registry and the Prosecution.

¹⁹ Observations on Proposed Redactions, para. 9.

ICC-02/04-01/05-459-SECRET-Exp contains (i) information from highly sensitive sources; and (ii) information about the alleged location of the suspect, its disclosure would harm the Registry's and Prosecution's ability to work with informants and further diminish the Court's ability to locate and arrest fugitives. The Prosecution, therefore, submits that limited and individually justified redactions to elements related to the identity of sources and cooperation partners would allow the Defence to scrutinise the measures adopted and the results obtained, and be overall proportionate. Regarding ICC-02/04-01/05-463-SECRET-Exp, the Prosecution avers that information provided by informants and intermediaries should be redacted to ensure the efficacy and viability of the tracking efforts as well as to safeguard the sources themselves, and that any information which would not risk identifying such sources, strategy or cooperation should instead be available to the Defence.

14. In its Proposed Redactions, the Registry argues that, since the suspect is still at large, redactions should be applied to any and all information regarding the past and possible locations of Mr Kony, the States and relevant partners that have cooperated with the Court to secure his appearance on a confidential basis over the years, the identity of the sources, as well as the strategy and *modus operandi* of the Registry. The disclosure of this information would jeopardize potential future operations of arrest and surrender and hinder the current and future cooperation of the Court's partners and sources. The Registry further provides individual justifications for each of the proposed redactions.

15. In the Observations on Proposed Redactions, the Prosecution agrees with the majority of the Registry's proposals and their underlying justification. The Prosecution also submits that, should the Single Judge be minded to grant the Defence and the LRVs full access to the ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463-SECRET-Exp and their annexes, the following mitigating measures could be considered: (i) limit the disclosure to the staff members of the relevant teams working on the Court's premises in The Hague and limit further disclosure of the material unless explicitly authorised by the Chamber after hearing the Prosecution and the Registry; and (ii) order that the reclassification as confidential be executed to a limited list of persons approved for access by the Chamber to avoid inadvertent disclosure by way of the distribution list.

III. DETERMINATION

A. Defence Requests

1. Request regarding ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463-SECRET-Exp and their annexes

16. The Single Judge recalls the 2 May 2024 Decision, instructing the Defence *inter alia* to provide observations on the 23 November 2023 Decision, in which Pre-Trial Chamber II *inter alia* found that all reasonable steps had been taken to secure Mr Kony's appearance relying on the Registry report ICC-02/04-01/05-463-SECRET-Exp, amending the report ICC-02/04-01/05-459-SECRET-Exp.²⁰

17. The Single Judge further recalls the order to the Registry to 'provid[e] counsel with access to the relevant materials, within the shortest possible time following the completion of the [counsel selection] procedure'²¹ and notes that filings ICC-02/04-01/05-459-SECRET-Exp and ICC-02/04-01/05-463-SECRET-Exp and their annexes, directly relevant for the Defence for the purposes of the present proceedings, remain at this stage classified as secret and *ex parte*, only available to the Registry and the Prosecution. In this regard, the Single Judge observes that neither the Prosecution nor the Registry oppose that the documents be made available to the Defence. They, however, submit that, in application of rule 81 of the Rules, some information contained therein should not be disclosed to the Defence and that, accordingly, redactions should be applied, in order to mitigate the risk to sources, partners and the Court's activities aimed at securing the appearance of at-large suspects.

18. The Single Judge notes that the Registry's request for non-disclosure does not relate to evidence but to filings in the case record; while rule 81 of the Rules primarily governs restrictions to disclosure of evidence, this rule may also apply to redactions to documents that are not used as evidence.²² The Single Judge also recalls the overriding principle that full disclosure should be made and redactions be strictly justified, and

²⁰ [23 November 2023 Decision](#), paras 41-44, footnotes 46-49.

²¹ [Decision on Counsel Appointment Procedure](#), para. 26.

²² Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, Decision Concerning the Redaction and Transmission of Documents to the Defence, 26 February 2015, ICC-02/04-01/15-202-Conf-Exp, confidential and *ex parte*, only available to the Prosecution (a public redacted version was issued on 15 April 2015, [ICC-02/04-01/15-202-Red](#)), para. 13.

will accordingly assess the Registry Proposed Redactions in light of the factors to be considered under rule 81 of the Rules.²³

19. The jurisprudence of this Court has specified that redactions may be granted pursuant to rules 81(2) and (4) of the Rules if: (i) there is an ‘objectively justifiable’ risk to the safety of the person concerned, or which may prejudice further or ongoing investigations; (ii) the risk arises from disclosing the particular information *to the Defence*, as opposed to the public at large; (iii) the measure is necessary, in that the non-disclosure of information eliminates or reduces that risk and the measure is the least intrusive possible; and (iv) the measures sought are proportionate, in light of the rights of the suspect and a fair and impartial trial.²⁴

20. In relation to the application of these criteria, the Single Judge further considers that, as a general principle and unless otherwise justified, redactions should: (i) not be applied to neutral, general and non-identifying words; (ii) not be applied in a blanket way, to entire sentences or parts of sentences; and (iii) be consistently applied throughout the relevant documents. In addition, the burden is on the party requesting non-disclosure to satisfy the Chamber that the request is fully justified. Each request for non-disclosure must be assessed on a case-by-case basis, with due regard to the competing interests at stake, including the interests of the suspect. It is, therefore, imperative for the relevant parties to submit proper and detailed justifications for each proposed redaction. The Single Judge further recalls that Counsel is under the obligation to ensure the respect of professional secrecy and confidentiality of information under article 8 of the Code of Professional Conduct for counsel. In the

²³ See, e.g., Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Order for Additional Information, 15 May 2019, [ICC-01/14-01/18-201](#), public, para. 11 and footnote 13 including reference cited therein.

²⁴ Pre-Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on the Prosecution Request for Leave Not to Disclose the Identity of Witness MLI-OTP-P-0431, 19 July 2018, ICC-01/12-01/18-88-Conf-Exp-tENG, confidential and ex parte, only available to the Prosecution and the Victims and Witnesses Unit (a public redacted version was issued on 27 November 2018, [ICC-01/12-01/18-88-Red2-tENG](#)), para. 12 referring to Appeals Chamber, *The Prosecutor v. Germain Katanga*, [Judgment on the Appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled ‘First Decision on the Prosecution Request for Authorisation to Redact Witness Statements’](#), 13 May 2008, ICC-01/04-01/07-475, public, paras 67, 70-71, 72; Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81’](#), 14 December 2006, ICC-01/04-01/06-773, paras 21, 33-34. See also Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, [Decision on the Prosecution Amended Request for Non-Standard Redactions](#), 2 October 2020, ICC-02/04-01/15-1750, public, para. 12.

present case, the Single Judge notes that both the Registry and the Prosecution advance the existence of an objectively justifiable risk to sources, informants and the confidentiality of the steps taken in relation to article 61(2)(b) requirements to justify the non-disclosure of some information contained in the documents forming the subject of the Defence Request.

21. The Single Judge notes the unique circumstances of confirmation proceedings *in absentia* and the unprecedented challenges that inevitably arise in respect of those circumstances, namely in connection with the fact that the suspect is still at large. On the balance of interests, the Single Judge finds that the proposed redactions, under rules 81(2) and (4) of the Rules, strictly limited to information either identifying sources, or regarding States and other partners cooperating on condition of confidentiality, are necessary and proportionate. The Single Judge is satisfied that the risk that disclosure of this information may discourage future cooperation with the Registry is objective; that it arises by disclosing this information to any and all actors external to the Registry and the Prosecution, and that this includes members of the defence teams and the LRVs.²⁵ The Single Judge emphasises that the justification for restricting disclosure of this information neither arises from, nor is otherwise related to, concern as to the professionalism of Defence counsel or the LRVs, but rather from the objective need that access to this type of information remain limited to as few individuals as possible.

22. More specifically, the Single Judge finds that the non-disclosure of details relating to the Court's efforts to track and arrest Mr Kony over the years, including in particular information regarding the strategy and the *modus operandi* of the Registry and of the Court in relation to suspects at large, is justified and, within the limits detailed in this decision, necessary and proportionate. The Single Judge is satisfied that the information thus made available, albeit redacted, sufficiently enables the Defence to provide observations on the 23 November 2023 Decision.

23. The Single Judge clarifies that, in light of the sensitive nature of the information covered in the documents requested by the Defence and their annexes, (i) access to the

²⁵ See, e.g., Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, [Decision on the Prosecution Amended Request for Non-Standard Redactions](#), 2 October 2020, ICC-02/04-01/15-1750, public, para. 13.

confidential redacted versions is strictly limited to the members of the Defence team working on the Court's premises in The Hague; (ii) no further disclosure of those documents is allowed unless explicitly authorised by the Chamber after hearing the Prosecution and the Registry. As an additional precautionary measure, the Single Judge instructs the Registry to limit the distribution list to a restricted number of recipients, with a view to minimising the risk for inadvertent disclosure.

24. Accordingly, the Single Judge finds that documents (i) ICC-02/04-01/05-459-SECRET-Exp and its annex, and (ii) ICC-02/04-01/05-463-SECRET-Exp, and its annexes I and III should be made available to the Defence and to the LRVs, with appropriate redactions, as soon as practicable and by no later than 16 August 2024.

25. As regards the specific proposals made by the Registry, the Single Judge notes that, whilst most of them are justified and in compliance with these principles and determination, some of them relate to information of a generic nature; in some other instances, the Registry resorts to redactions of entire sentences, including introductory words of paragraphs or sentences, or other generic, descriptive words, as such unsuitable to reveal or otherwise affect any sensitive information. As indicated in its previous order dated 10 June 2024,²⁶ the Single Judge believes that as a matter of principle blanket redactions of entire sentences or large parts of sentences should be avoided; by their nature, they are disproportionate, since they do not allow the Defence to understand the context of the redactions. Accordingly, redactions should only be applied to words and portions of sentences suitable to reveal sensitive information, whether in isolation or when read in connection with other information made available.

26. As to the Registry's proposal to retain the current classification of Annex II to filing ICC-02/04-01/05-463 as 'secret, *ex parte* Registry and Prosecution', the Single Judge is satisfied that that classification remains justified in light of the nature of the information contained in it and that a confidential redacted version would require so extensive redactions as to make the document illegible.

27. The Single Judge believes that the principles set forth in this decision, coupled with the instructions previously imparted in the orders dated 10 June 2024 and 19 June 2024,²⁷ together with the proposals submitted by the Prosecution in their Observations

²⁶ Email from Pre-Trial Chamber III to the Registry, 10 June 2024, at 11:02.

²⁷ Email from Pre-Trial Chamber III to the Registry, 19 June 2024, at 13:12.

(which the Single Judge approves), provide the Registry with sufficient guidance to review its proposals, with a view to limiting redactions to those strictly necessary and justified, and to accordingly file confidential redacted versions. The Single Judge also underscores the need to preserve a consistent approach throughout the relevant documents.

2. Defence request regarding other relevant documents

28. The Single Judge notes the additional Defence request to reclassify material relevant to the measures taken to locate Mr Kony and inform him of the charges and the proposed confirmation hearing which might be currently also classified as secret *ex parte*. The Single Judge notes that ICC-02/04-01/05-473-US-Exp-AnxII and ICC-02/04-01/05-479-US-Exp-AnxII-IV, currently only available to the Registry and the Prosecution, may be of relevance for the Defence at a later stage. Therefore, the Single Judge instructs the Prosecution and the Registry to liaise and submit consolidated observations as regards access to these documents by the Defence, indicating any redactions they would propose to apply vis-à-vis the Defence, by no later than 20 August 2024.

B. Registry Request

29. The Single Judge, having considered the Registry Request, grants the request as far as ICC-02/04-01/05-T-006 and ICC-02/04-01/05-T-011 are concerned. Regarding ICC-02/04-01/05-T-007, the Registry and the Prosecution propose to redact four words. The Single Judge notes that the four words requested for redaction per se neither provide any information of sensitive nature, nor reveal the specific information which the Registry and the Prosecutor seek to maintain confidential. Furthermore, this transcript dates back to 2007. Recalling that redactions are an exception to the overriding principle that full disclosure should be made, considering the time elapsed since said document was issued, and noting the absence of justification on the risk created by disclosing this information to the Defence specifically, the Single Judge finds that the proposed redaction is unnecessary and disproportionate.

30. Accordingly, the Registry is ordered to reclassify ICC-02/04-01/05-T-006, ICC-02/04-01/05-T-007 and ICC-02/04-01/05-T-011 as confidential, by no later than 16 August 2024.

C. Prosecution Requests for Reclassification and Access

31. Having considered the proposed reclassification to confidential of filings ICC-02/04-01/05-157-Conf-Exp, as well as ICC-02/04-01/05-121-US-Exp, ICC-02/04-01/05-256-US-Exp, and ICC-02/04-01/05-293-US-Exp, and noting that no objection to this reclassification has been recorded, the Single Judge grants the Prosecution Request for Reclassification and orders the Registry to reclassify these filings as confidential, by no later than 16 August 2024.

32. In addition, the Single Judge notes the Prosecution request to access filings ICC-02/04-01/05-436-SECRET-Exp, ICC-02/04-01/05-437-SECRET-Exp, ICC-02/04-01/05-439-SECRET-Exp and ICC-02/04-01/05-440-SECRET,²⁸ and the Registry's agreement to grant access to these documents to the Prosecution.²⁹ Considering the relevance and importance of the documents for these proceedings and noting that the Prosecution has already been granted access to a document on the same subject matter,³⁰ the Single Judge grants the Prosecution Request for Access and instructs the Registry to immediately reclassify these filings as SECRET, *ex parte* Registry and Prosecution. The Prosecution and the Registry are instructed to liaise and submit consolidated observations as regards access to these documents by the Defence, including for any redactions they would propose to apply prior thereto, by no later than 30 August 2024.

D. Other reclassification matters

33. The Single Judge notes that a reclassification exercise of the filings in the case file currently still not publicly available is ongoing, pursuant to an order dated 16 May

²⁸ Observations on Proposed Redactions, para. 9.

²⁹ Email from the Registry to Pre-Trial Chamber III, 16 July 2024, at 18:11.

³⁰ ICC-02/04-01/05-438-SECRET-Exp, originally classified as secret and *ex parte*, only available to the Registry, made available to the Prosecution pursuant to a decision of Pre-Trial Chamber II.

2024.³¹ Noting the proposals submitted by the Registry in implementation of this order,³² the Single Judge will issue further decisions on this matter on due course.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Defence Request, as specified in paragraphs 19 to 27 of this decision and, accordingly, **ORDERS** the Registry to file confidential redacted versions of filings (i) ICC-02/04-01/05-459-SECRET-Exp and its annex and (ii) ICC-02/04-01/05-463-SECRET-Exp and its annexes I and III, with redactions as proposed by the Registry and approved in this decision, as soon as practicable and by no later than 16 August 2024;

GRANTS the Defence Request, as specified in paragraph 28 of this decision and, accordingly, **INSTRUCTS** the Prosecution and the Registry to liaise and submit consolidated observations as regards access by the Defence to ICC-02/04-01/05-473-US-Exp-AnxII and ICC-02/04-01/05-479-US-Exp-AnxII-IV, by no later than 20 August 2024;

GRANTS in part the Registry Request and, accordingly, **ORDERS** the Registry to reclassify ICC-02/04-01/05-T-006, ICC-02/04-01/05-T-007 and ICC-02/04-01/05-T-011 as confidential, by no later than 16 August 2024;

GRANTS the Prosecution Request for Reclassification and, accordingly, **ORDERS** the Registry to reclassify as confidential ICC-02/04-01/05-157-Conf-Exp, ICC-02/04-01/05-121-US-Exp, ICC-02/04-01/05-256-US-Exp, and ICC-02/04-01/05-293-US-Exp, by no later than 16 August 2024; and

GRANTS the Prosecution Request for Access and, accordingly,

(i) **ORDERS** the Registry to reclassify filings ICC-02/04-01/05-436-SECRET-Exp, ICC-02/04-01/05-437-SECRET-Exp, ICC-02/04-01/05-439-SECRET-Exp and ICC-02/04-01/05-440-SECRET-Exp as SECRET, *ex parte* Registry and Prosecution; and

(ii) **INSTRUCTS** the Registry and Prosecution to liaise and submit **consolidated** observations as regards access by the Defence to these filings,

³¹ Email from Pre-Trial Chamber III to the Registry, 16 May 2024, 11:15.

³² Email from the Registry to Pre-Trial Chamber III, 21 June 2024, at 21:26.

as well as to filing ICC-02/04-01/15-438 SECRET-Exp, including for any redactions they would propose to apply prior thereto, by no later than 30 August 2024.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Althea Violet Alexis-Windsor

Single Judge

Dated this Monday, 12 August 2024

At The Hague, The Netherlands