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**No. ICC-02/04-01/05
Date: 12 December 2024**

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

Decision Setting the Disclosure Regime

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

The Office of the Prosecutor

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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**

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States Representatives

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REGISTRY

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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 ‘Court’) issues this ‘Decision Setting the Disclosure Regime’, pursuant to articles 61 and 67 of the Rome Statute (the ‘Statute’) and rules 76, 77, 81, 121, and 126 of the Rules of Procedure and Evidence (the ‘Rules’).

I. PROCEDURAL HISTORY

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 19 January 2024, the Prosecution submitted the ‘Document Containing the Charges’ (the ‘DCC’).²
3. On 28 March 2024, the Prosecution submitted the ‘Prosecution’s Observations on the conduct of the confirmation proceedings *in absentia* and Requests for the adoption of certain protocols and an *in situ* hearing in Uganda’ (the Prosecution Observations).³
4. On 12 April 2024, the Office of Public Counsel for Victims (the ‘OPCV’) submitted the ‘Victims’ response to Prosecution’s requests for the adoption of certain protocols and an *in situ* hearing in Uganda (No. ICC-02/04-01/05-490)’ (the ‘OPCV Response’).⁴
5. On 5 July 2024, the Single Judge issued the ‘Decision on the “Defence Request for Variation of Deadlines and for a Status Conference”’ (the ‘5 July 2024 Decision’).⁵
6. On 23 July 2024, a status conference was held (the ‘23 July 2024 Status Conference’).⁶
7. On 11 September 2024, the Defence, in accordance with the extension of the time limit authorised in the 5 July 2024 Decision,⁷ submitted the ‘Kony Defence Response

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 (a public redacted version was issued on 13 October 2005, [ICC-02/04-01/05-53](#)).

² [ICC-02/04-01/05-474](#), public.

³ [ICC-02/04-01/05-490](#), public, with [Annex A](#), public, and Annex B, confidential and *ex parte*, only available to the Prosecution.

⁴ [ICC-02/04-01/05-494](#), public.

⁵ [ICC-02/04-01/05-508](#), public.

⁶ [ICC-02/04-01/05-T-012-Red-ENG](#).

⁷ [5 July 2024 Decision](#), para. 12.

to Prosecution's Observations and Victims' response on the conduct of the confirmation proceedings *in absentia* and Requests for the adoption of certain protocols and an *in situ* hearing in Uganda' (the 'Defence Response').⁸

8. On 12 September 2024, the Chamber vacated the date of the confirmation of charges hearing, and postponed the hearing until further notice.⁹

9. On 29 October 2024, the Chamber issued the 'Decision on the criteria for holding confirmation of charges proceedings *in absentia*'.¹⁰

II. SUBMISSIONS

A. Prosecution Observations

10. The Prosecution submits that it: (i) intends to rely on approximately 6,178 items of documentary evidence at the confirmation of charges hearing (the overall number of pages is approximately 64,954); (ii) intends to rely on approximately 18 videos (amounting to about 21 hours), 340 audio recordings (amounting to about 176 hours), and 1,356 photographs; (iii) will disclose approximately 17,837 unredacted items (amounting to 106,858 pages), approximately 100 unredacted videos (amounting to about 28 hours), and approximately 391 unredacted radio recordings (amounting to about 192 hours); (iv) has identified 178 incriminatory items also containing potentially exonerating evidence, and 67 items to be disclosed as potentially exonerating evidence (amounting to 728 pages, with only five items requiring redactions); (v) seeks to call between five and 12 witnesses *viva voce* at the confirmation of charges hearing; (vi) intends to rely on the written statements of approximately 170 witnesses, which will be provided in their entirety to the Defence, with limited standard redactions applied; (vii) does not intend to submit any requests to withhold the identity of any witness and has not requested any security assessment for any of the witnesses, except for those to be called *viva voce* at the confirmation of charges hearing, which will be completed at the latest by 31 May 2024; (viii) will only request measures pursuant to rules 87 and 88 of the Rules for the witnesses to be called *viva voce* at the confirmation of charges hearing; (ix) has identified approximately 13,000 items to be disclosed

⁸ [ICC-02/04-01/05-525](#), public.

⁹ [Decision Postponing the Confirmation of Charges Hearing](#), ICC-02/04-01/05-526, public.

¹⁰ [ICC-02/04-01/05-532](#), public.

pursuant to rule 77 of the Rules; (x) has not identified any potentially exculpatory evidence or evidence material to the preparation of the Defence that is affected by articles 54(3)(e), 72, or 93 of the Statute; (xi) does not intend to submit requests pursuant to article 56 of the Statute; (xii) is pursuing certain additional investigative activities, which will not materially impact the disclosure process, the protection of witnesses, or the commencement of the confirmation of charges hearing; and (xiii) estimates that it can complete its disclosure by 6 June 2024 at the earliest.¹¹

11. The Prosecution further requests the Chamber to adopt: (i) the Redaction Protocol as contained in the Chambers Practice Manual, so as to promote judicial economy and efficiency in disclosure; (ii) the Protocol on the Handling of Confidential Information During Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant as annexed to the Chambers Practice Manual (the ‘Information and Contact Protocol’), which will achieve an appropriate balance between the rights and interests of the person, the interests of the parties, and the safety of witness and others affected by the activities of the Court; and (iii) a new version of the E-Court Protocol, once submitted by the Registry, having agreed with the Registry to use the judicial workflow platform for disclosure.¹²

12. Lastly, the Prosecution avers that it: (i) will submit a request to Trial Chamber IX to provide the Defence for Mr Kony access to certain confidential transcripts and items of evidence, as well as decisions from the trial in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen Case’) that the Prosecution intends to rely on or are otherwise material to the preparation of the Defence; and (ii) is liaising with the Defence of Mr Ongwen in relation to confidential items of evidence disclosed by that Defence team, as well as Defence witnesses, which are subject to disclosure.¹³

B. OPCV Response

13. The OPCV has no observations on the Information and Contact Protocol, and reserves its right to make observations on the new E-Court Protocol once submitted by the Registry.¹⁴ The OPCV deems it necessary to adopt the Redaction Protocol and, in

¹¹ [Prosecution Observations](#), paras 7-25.

¹² [Prosecution Observations](#), paras 26-29.

¹³ [Prosecution Observations](#), para. 35.

¹⁴ [OPCV Response](#), para. 9.

addition, posits that it has to be consulted on any request for lifting redactions which may impact on previous rulings granting said redactions in application forms and related material, and that it should be afforded an opportunity to challenge any such request before the Chamber.¹⁵ In addition, the OPCV favours the adoption of a Dual Status Individuals Protocol as the Prosecution will rely on a number of witnesses from the Ongwen Case.¹⁶

C. Defence Response

14. The Defence contends that the Information and Contact Protocol and the Redaction Protocol should be adapted to reflect the fact that the Defence is not in contact with, nor sharing information with, a client, because in such circumstances the jeopardy foreseen in regulation 101(1) of the Regulations of the Court (the ‘Regulations’) does not arise.¹⁷ It also argues that: (i) paragraph 5 of the Redaction Protocol cannot apply as there is no possibility of trial *in absentia*; (ii) it would be appropriate to distinguish between information that should not be disclosed to a suspect and information that should not be disclosed to the Defence (where the ‘accused’ [sic] is absent but represented by court appointed counsel) in the Redaction Protocol; (iii) the Redaction Protocol should require that the Pre-Trial Chamber receives a copy of the material in order to verify redactions; and (iv) in order for some paragraphs of the Information and Contact Protocol to be effective, the Defence needs to be made aware of relevant decisions or witness protective measures being carried over from the Ongwen Case.¹⁸ The Defence further agrees with the OPCV that a Dual Status Individuals Protocol is now appropriate as applications for victims’ participation have already been granted.¹⁹ The Defence also considers that the Prosecution’s request to adopt a new version of the E-Court Protocol for the use of the judicial workflow platform is now moot, as the Prosecution has indicated that it does not consider it feasible due to several technical issues.²⁰

¹⁵ [OPCV Response](#), paras 10-11.

¹⁶ [OPCV Response](#), para. 12.

¹⁷ [Defence Response](#), paras 31-32.

¹⁸ [Defence Response](#), paras 33-34.

¹⁹ [Defence Response](#), para. 34.

²⁰ [Defence Response](#), para. 35.

15. Lastly, the Defence indicates that, after receiving and reviewing the Prosecution disclosure and once its investigations have been conducted, it will be in a position to inform the Chamber of any grounds for excluding criminal responsibility and/or alibi, as well as any intention to present evidence during the confirmation of charges hearing, including any protective measures required, and whether it possesses materials that the Prosecution should be permitted to inspect under rule 78 of the Rules.²¹

III. DETERMINATION

A. E-Court Protocol

16. The Chamber notes that the Prosecution and the Registry have indicated that the disclosure process in this case will not take place through the judicial workflow platform, but rather through the NUIX system.²² Accordingly, the Chamber adopts the currently applicable version of the E-Court Protocol for the provision of evidence and witness and victim information in electronic form. The Registry shall immediately file this version of the E-Court Protocol, together with any adaptations that may be necessary in the circumstances of the present case, into the record of the case.

17. In view of the consistent practice in respect of the existing E-Court Protocol, the Chamber does not require any further submissions to be made in this regard.

B. Thematic Disclosure

18. The Prosecution foresees a thematic disclosure process ‘with items contained in thematic disclosure packages specific to Mr Kony’s criminal responsibility, contextual evidence, and charged attacks, including systemic charges and gender-based crimes directly perpetrated by Mr Kony’.²³ The Chamber finds that a thematic approach can significantly assist the Defence in its preparations.

²¹ [Defence Response](#), paras 37-42.

²² Email from the Registry to the Chamber, 13 June 2024, at 16:34; [23 July 2024 Status Conference](#), p. 7.

²³ Prosecution Observations, [Annex A](#), p. 1.

19. The Chamber, in the exercise of its discretion pursuant to article 61(3) of the Statute and rule 121(2) of the Rules,²⁴ considers it appropriate to issue further directions regarding the themes proposed by the Prosecution so as to reflect the distinct aspects of the present case and to enhance the Defence's ability to adequately prepare for the confirmation of charges hearing.

20. Accordingly, the Prosecution shall submit a proposal detailing its disclosure themes by no later than 10 January 2025. This proposal shall reflect the following themes: (i) contextual elements for crimes against humanity; (ii) contextual elements for war crimes; (iii) each separate crime falling within the jurisdiction of the Court alleged in relation to each of the attacks included in the DCC as well as the alleged conduct relating to children and women abducted and integrated into the LRA; and (iv) each alleged mode of liability.

21. Following the Chamber's assessment and approval, the Prosecution shall provide separate disclosure packages containing only the relevant evidentiary items, classified as incriminating, exonerating, or falling under rule 77 of the Rules in relation to each such theme. The Prosecution shall not duplicate the disclosure of particular items of evidence and it shall include evidentiary items in the disclosure package to which they are most directly related. Each disclosure package shall be accompanied by a filing filed in the record of the case setting out the particular theme and enumerating the items of evidence disclosed.

22. Furthermore, the Chamber directs the Prosecution not to disclose evidentiary items labelled as 'miscellaneous'. Instead, the Prosecution shall ensure that such items fall under the aforementioned themes and that they comply with the remainder of the instructions set out in the present decision.

²⁴ See also *mutatis mutandis* rule 109(c) of the [Rules of Procedure and Evidence before the Kosovo Specialist Chambers](#), which provides that, '[a]s far as practicable, a Party shall: [...] categorise the information in accordance with the charges in the indictment, with specific reference to the underlying crimes, contextual elements of the crimes, the alleged conduct of the Accused or, where applicable, evidence to be presented by the Specialist Prosecutor'; see also for instance Kosovo Specialist Chambers, Pre-Trial Judge, *The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi*, [Decision on Categorisation of Evidence Under Rule 109\(c\) and Related Matters](#), 12 March 2021, KSC-BC-2020-06/F00218, paras 19-20.

C. Disclosure Notes

23. The Prosecution shall provide disclosure notes for all disclosed items, that is items containing incriminating, exonerating, and rule 77 information.²⁵ Such notes serve the aim of identifying the relevant section for the purposes of disclosure, especially in relation to mixed evidentiary items (that is items containing various types of information, namely incriminating, exonerating, and/or rule 77 material) and (lengthy) evidentiary items that are only relevant in part to the present case.

24. In specific terms, the Prosecution shall, in a dedicated metadata field, separately identify each instance containing incriminating, exonerating and/or rule 77 information included in each item of evidence by using the codes INCRIM, PEXO, and/or R-77. In doing so, the Prosecution shall, as applicable, specify for each such instance: (i) the relevant page or paragraph numbers for statements, transcripts, and any other documentary material; (ii) the relevant time intervals for audio and video material (together with the page and line numbers of any transcripts); and (iii) a concise description of the contents of visual material.

D. Witnesses

25. On the date of the completion of the disclosure process as set out below, the Prosecution shall submit a table of its witnesses in relation to whom materials have been disclosed.²⁶ Such table shall consolidate all information related to each of the Prosecution's witnesses, with all relevant documents made accessible by way of hyperlinking their ERN numbers.

26. In specific terms, this table shall consist of separate columns containing the following information, where applicable, for each witness: (i) the code of the witness; (ii) the name of the witness; (iii) the gender of the witness; (iv) the witness statement(s), including the ERN number, the date, the type, the language and the ERN number of the translated version, if applicable; (v) the ERN number of any witness screening note(s);

²⁵ See for instance Pre-Trial Chamber II, *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, [Order on disclosure and related matters](#), 7 November 2022, ICC-01/14-01/22-104, public, para. 8; [Second order on disclosure and related matters](#), 30 November 2022, ICC-01/14-01/22-116, public, paras 13-15.

²⁶ See for instance Pre-Trial Chamber II, *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, [Order on the conduct of the confirmation of charges proceedings](#), 27 June 2022, ICC-01/14-01/22-62, public, paras 32-33.

(vi) the ERN number of the transcription of the interview; (vii) the ERN number of any attachments or annexes to the witness statement(s), screening note or transcription; (viii) the date of disclosure for each item; and (ix) the ERN number of any other related supporting material in relation to the relevant witness.

27. In addition, the Prosecution shall submit a list of its proposed *viva voce* witnesses for the confirmation of charges hearing, together with a summary of the witnesses' evidence and the aspects of the Prosecution's case this evidence is said to support, on the date of the completion of the disclosure process as set out below. The Prosecution shall also submit any requests pursuant to rules 87 and/or 88 of the Rules, accompanied by the completed security assessments for the witnesses in question, by the same time limit. The Chamber shall subsequently set out any further directions in this respect.

E. Intercept Table

28. At the 23 July 2024 Status Conference, the Prosecution indicated that it intends to rely on 'intercepted radio communications from the Ugandan authorities', namely 'shorthand summaries of conversations of the [Lord's Resistance Army] leadership in logbooks'.²⁷ It offered to 'provide an overview chart with its disclosure notification'.²⁸ The Prosecution further explained that, for technical reasons, 'audio tracks of the registered intercepted radio communication have been split into their original format and now we have a situation that we have a parent document ID and for each parent document ID several sub audio tracks per recording'.²⁹

29. The Chamber orders the Prosecution to submit the aforementioned table on the date of the completion of the disclosure process as set out below.

F. Ongwen Case

30. The Prosecution indicates that it intends to rely on certain materials from the Ongwen Case or that some of these materials are material to the preparation of the Defence in the present case. Certain materials from the Ongwen Case may ostensibly

²⁷ [23 July 2024 Status Conference](#), p. 6.

²⁸ [23 July 2024 Status Conference](#), p. 6.

²⁹ [23 July 2024 Status Conference](#), p. 7.

hold a degree of relevance to the present case in view of the partially overlapping allegations levelled by the Prosecution in both cases. Therefore, the Prosecution is, in principle, entitled to rely on some of these materials with a view to attempting to substantiate its allegations in the present case, whereas it is obliged to take such measures to ensure that those materials from the Ongwen Case eliciting its obligations pursuant to article 67(2) of the Statute and rule 77 of the Rules are placed at the disposal of the Defence.

31. At the same time, these proceedings are, from a procedural point of view, distinct from the Ongwen Case. The Chamber notes, in particular, that the Ongwen Case has been conclusively adjudicated following the pronouncement of the relevant judgments by the Appeals Chamber, and recalls, once again, that the present proceedings are conducted in the absence of the suspect. On this basis, the Chamber, in the exercise of its discretion pursuant to article 61(3) of the Statute and rule 121(2) of the Rules, deems it imperative to set out the following directions.

32. The Chamber underlines that, as a general rule, any materials from the Ongwen Case that the Prosecution will rely on or otherwise disclose to the Defence in the present case, including but not limited to evidentiary items, transcripts, and decisions, must be disclosed in line with the Prosecution's specific disclosure obligations applicable to the present proceedings as specified in this decision without exception. In this regard, the Chamber emphasises two specific aspects. First, the Prosecution shall only disclose those materials from the Ongwen Case that fulfil the relevant criteria for disclosure. Second, the Prosecution shall effect the disclosure of materials from the Ongwen Case in light of its allegations in the present case.

33. Moreover, as to the Prosecution's assertion that it will request access for the Defence for Mr Kony to certain materials from the Ongwen Case, the Chamber specifies that securing such access does not displace the Prosecution's formal disclosure obligations in the present proceedings. As a result, the Prosecution must fulfil its disclosure obligations in the present proceedings in accordance with the present

directions in relation to any material to which access may be granted to the Defence by the Trial Chamber.³⁰

34. The Chamber underlines that, in view of the volume of disclosure in the present case and the breadth of the allegations against Mr Kony, the preceding instructions are critical for the effective conduct of the disclosure process and the present proceedings. Accordingly, any attempts to place materials from the Ongwen Case at the disposal of the Defence without adhering to the preceding instructions shall result in the exclusion of the relevant materials for the purposes of the confirmation of charges hearing.

G. Redaction Protocol

35. The Chamber notes that the legal basis underpinning the Defence's argument that the Redaction Protocol should be adapted to reflect the *in absentia* nature of the present proceedings, namely regulation 101(1) of the Regulations, is inapplicable. This provision concerns the possibility of restricting a detained person's access to the news. It is unrelated to the subject-matter of the Redaction Protocol. Furthermore, the rationale of the redactions foreseen by the Redaction Protocol does not cease to exist because of the absence of the suspect. Activities arising out of the disclosure of certain information associated with investigations or persons involved in the proceedings may attract the attention of persons with an interest to affect the conduct of these proceedings. The Chamber further notes that the Redaction Protocol provides for adequate safeguards against the excessive application of redactions. Contrary to the Defence's argument, the relevant material must be made available to the Chamber since the application of redactions remains under 'judicial control'. The Defence may also request the Prosecution to lift redactions and, where necessary, apply to the Chamber for a ruling. Moreover, as to the Defence's argument that paragraph 5 of the Redaction Protocol is inapplicable, the Chamber considers that the application of the Redaction Protocol is inherently limited to the present phase of the proceedings and it is, thus, not necessary to specifically exclude this paragraph. As a result, the Chamber finds that the Redaction Protocol does not require adjustment, and adopts the procedure

³⁰ See also email from the Chamber to the Prosecution, 31 July 2024, 11:54; [Report on decisions and orders issued by way of email for the period November 2022 – September 2024](#), 25 October 2024, ICC-02/04-01/05-530, public, Annex 22, [ICC-02/04-01/05-530-Anx22-Red](#), public.

set out in the Chambers Practice Manual in respect of exceptions to disclosure by the Prosecution, which remain subject to judicial control, under rule 81(2) and (4) of the Rules.³¹

36. It is further noted that the Prosecution does not intend to submit applications to withhold the identity of any witnesses or to provide summaries of any witness statements. Accordingly, no time limit shall be set for such applications.

37. The Chamber turns to the OPCV's submission that it has to be consulted on any request for lifting redactions which may impact on previous rulings granting said redactions in application forms and related material. The need for submissions by the OPCV regarding any such requests will be assessed on a case-by-case basis and it is not necessary to issue a general instruction to this effect.

H. Communication

38. As envisaged in rule 121(2)(c) of the Rules, the Chamber shall receive all evidence disclosed by way of communication, regardless of whether the parties intend to rely on or present the evidence during the confirmation of charges hearing, in order to ensure that disclosure takes place under satisfactory conditions in line with the requirements of article 61(3) of the Statute together with rule 121(2) of the Rules.

I. Classification

39. In view of the principle of publicity, the evidence disclosed shall, in principle, be classified as public, unless a reason exists to classify it otherwise.

40. It is incumbent upon the parties to indicate the level of classification when submitting the evidence for disclosure, and to provide the factual and legal basis for any proposal to use a level of classification other than public.

³¹ [Chambers Practice Manual](#), Eighth Edition, 2024, para. 100.

J. *Inter partes* consultations

41. Should any disagreements on the implementation of the Chamber's instructions regarding disclosure arise, the parties shall liaise with a view to solving such matters *inter partes*. The Chamber calls upon the professionalism and good faith of the parties to ensure that the disclosure process is completed in a timely and orderly manner. The parties may only seize the Chamber where an agreement cannot be reached with regard to a specific matter after exhausting *inter partes* consultations.

K. Time Limit

42. The Chamber recalls that article 61(3) of the Statute refers to 'a reasonable time before the hearing' and that the related time limit specified in rule 121(3) of the Rules is only indicative of the minimum notice period a party may avail itself of to comply with its disclosure obligations.³² These time limits allow the Defence to prepare adequately for the confirmation hearing in accordance with article 67(1)(b) of the Statute. Thus, the Prosecution shall expeditiously discharge its disclosure obligations as soon as practicable on a rolling basis and not only on the date when the deadline indicated by the statutory documents, as amended in this decision, expires.

43. In view of the foregoing, the Prosecution shall complete the disclosure process by no later than 28 March 2025. This includes all the evidence it intends to rely upon at the confirmation of charges hearing, including the totality of the witness statements and their translations, the exculpatory material that it has identified thus far, and the material falling under rule 77 of the Rules. Any items of evidence submitted after that date will not be taken into account for the purposes of the confirmation of charges hearing.

44. This finding is without prejudice to the Prosecution's ongoing duty to provide the Defence with any exonerating evidence identified after the aforementioned time limit in accordance with article 67(2) of the Statute, without detracting from the Prosecution's obligation to identify and disclose all the exculpatory material within the evidence already in its control and possession. This obligation shall not affect the

³² Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom*, Decision on Disclosure and Related Matters, 23 January 2019, ICC-01/14-01/18-64-Conf, confidential, para. 13 (a public redacted version was issued on the same day, [ICC-01/14-01/18-64-Red](#)).

existing time limits of the proceedings, including the timeline for the disclosure process as outlined above.

L. Information and Contact Protocol

45. As with the Redaction Protocol, the legal basis invoked by the Defence, namely regulation 101(1) of the Regulations, is unrelated to the subject-matter of the Information and Contact Protocol. Furthermore, the Defence's intention to conduct investigations may unintentionally create risks for witnesses, victims, and other individuals through, for instance, using confidential information and contacting such persons in the course of the investigations. The fact that the suspect is absent does not detract from these considerations. In this regard, the Defence has not identified any specific provisions of the Information and Contact Protocol requiring to be adapted. In addition, whereas the Defence avers that it should be informed of relevant decisions adopted in the Ongwen Case, it is the responsibility of the Prosecution to alert the Defence of the existence of any such decisions and, where necessary, request the relevant Chamber to provide the Defence with access or to adopt other measures to ensure that the Defence is aware of the relevant measures. This matter does not require a general adaptation of the Information and Contact Protocol. As a result, the Chamber adopts the Information and Contact Protocol, as annexed to the Chambers Practice Manual.³³

M. Investigations

46. Noting that the Prosecution is 'pursuing certain additional investigative activities', the Chamber recalls that, while the Prosecution is entitled to continue investigating at this stage of the proceedings, neither the disclosure process nor the confirmation of charges hearing may be made conditional on the completion of additional investigations. For this reason, the Prosecution shall conduct its investigative activities in a way that will not affect the disclosure process or the conduct of the confirmation of charges proceedings and hearing. It shall immediately inform the

³³ [Chambers Practice Manual](#), Eighth Edition, 2024, Annex.

Chamber and, to the extent possible, the parties and participants in the event that any such activities would nevertheless risk having such effects.

N. Dual Status Individuals Protocol

47. The Chamber considers that, in the present circumstances, the OPCV's request to adopt a Dual Status Individuals Protocol must be rejected seeing as it is currently unknown whether any dual status individuals will take part in these proceedings.

O. Defence Information

48. While mindful of the impact the Prosecution's disclosure and the Defence's investigations may have on the Defence's strategy in the present case, the Chamber must ensure the efficient and expeditious conduct of the present proceedings. Accordingly, having balanced these considerations, the Chamber orders the Defence to provide the information specified by the Single Judge at the 23 July 2024 Status Conference by no later than 28 May 2025.³⁴

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES to adopt the currently applicable version of the E-Court Protocol for the provision of evidence and witness and victim information in electronic form;

ORDERS the Registry to immediately file the E-Court Protocol, together with any adaptations that may be necessary in the circumstances of the present case, into the record of the case;

ORDERS the Prosecution to submit a proposal detailing its disclosure themes by no later than 10 January 2025;

ORDERS the Prosecution to submit a list of its proposed *viva voce* witnesses for the confirmation of charges hearing, together with a summary of the witnesses' evidence and the aspects of the Prosecution's case this evidence is said to support, by no later than 28 March 2025, as well as any requests pursuant to rules 87

³⁴ [23 July 2024 Status Conference](#), pp 22-23.

and/or 88 of the Rules, accompanied by the completed security assessments for the witnesses in question, by the same time limit;

ORDERS the Prosecution to submit an Intercept Table by no later than 28 March 2025;

DECIDES to adopt the Redaction Protocol, as set out in the Chambers Practice Manual;

ORDERS the Prosecution to complete its disclosure, in compliance with the instructions set out in the present decision, by no later than 28 March 2025;

DECIDES to adopt the Information and Contact Protocol, as annexed to the Chambers Practice Manual;

ORDERS the Prosecution to immediately inform the Chamber and, to the extent possible, the parties and participants in the event that any investigative activities would risk affecting the disclosure process or the conduct of the confirmation of charges proceedings and hearing;

REJECTS the OPCV's request to adopt a Dual Status Individuals Protocol; and

ORDERS the Defence to provide the information specified by the Single Judge at the 23 July 2024 Status Conference by no later than 28 May 2025.

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

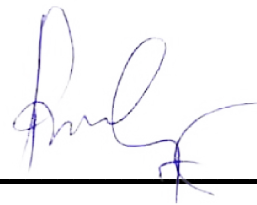


Judge Althea Violet Alexis-Windsor

Presiding Judge



Judge Iulia Antoanella Motoc



Judge Haykel Ben Mahfoudh

Dated this Thursday, 12 December 2024.

At The Hague, The Netherlands.