

## **ANNEX 24**

**PUBLIC**

**From:** Pre-Trial Chamber III Communications  
**Sent:** 16 August 2024 10:39  
**To:** D35 Kony Defence team; OTP Kony Communications; Kony LRV Team  
 OPCV  
**Cc:** Chamber Decisions Communication; Pre-Trial Chamber III  
 Communications; [REDACTED]; [REDACTED]; [REDACTED]  
**Subject:** ICC-02/04-01/05- Single Judge Decision on the Defence Request for  
 Further Variation of Deadlines (ICC-02/04-01/05-515) - public

Dear Counsel,  
 Dear colleagues,

The Single Judge notes the 'Defence Request for Further Variation of Deadlines' ('Request'), whereby the Defence for Mr Kony requests a variation of the deadline set pursuant to the 5 July 2024 Decision 'until 10 days after the service of redacted versions of the Reclassified Documents, or 20 September 2024, whichever is the latest'. As defined in the Request, the Reclassified Documents consist of three sets of documents addressed in the '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' dated 12 August 2024 (ICC-02/04-01/05-514, the 'Reclassification Decision').

The Single Judge also notes the Prosecution and the LRVs responses, respectively (i) requesting that 'any variation of the deadline be limited to either 10 days after service of the redacted versions of the Reclassified Document or 20 September 2024', whichever is earlier, and (ii) deferring to the Chamber.

In the Reclassification Decision, the Single Judge *inter alia* (i) ordered the Registry to file confidential redacted versions of filings (a) ICC-02/04-01/05-459-SECRET-Exp and its annex and (b) ICC-02/04-01/05-463-SECRET-Exp and its annexes I and III, 'as soon as practicable and by no later than 16 August 2024'; (ii) instructed 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; (iii) instructed the Registry and Prosecution to submit consolidated observations as regards access by the Defence to filings ICC-02/04-01/15-436 through 440, currently classified as SECRET-Exp, including any proposals for redactions, by no later than 30 August 2024.

In the view of the Defence, since the Reclassified Documents 'are numerically proximate to the filings and decisions upon which the Defence has been invited to present observations' and 'appear to be part of the litigation upon which the Defence has been ordered to file observations', it should have the opportunity to review and incorporate any relevant aspects of the Reclassified Documents into its observations; this, in light of the deadlines set in the Reclassification Decision, would only be feasible for the first set of Reclassified Documents. On this basis, the Defence submits that there would be good cause for the requested extension, pursuant to Regulation 35 of the Regulations of the Court.

At the outset, the Single Judge clarifies that the deadline for the Defence to submit their first set of observations, as initially set in the Decision of 2 May 2024 (ICC-02/04-01/05-499) and amended in the Decision of 5 July 2024 (ICC-02/04-01/05-508), is 28 August 2024: the ten working days started running on 15 August and will expire on 28 August 2024.

The Single Judge notes that the deadlines in the Reclassification Decision were set taking into account, *inter alia*, the relevance of the filings for the specific and limited subject matter of the observations due by 28 August 2024 and that those observations will only have to address the following: (i) '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); (ii) 'Second decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence (ICC-02/04-01/05-481); and (iii) 'Registry's Report on the implementation of the "Second decision on the Prosecution's request to hold a confirmation of charges hearing in the Kony case in the suspect's absence" dated 4 March 2024 (ICC-02/04-01/05-481)' (ICC-02/04-01/05-491)'. Whilst broadly speaking all documents on the record of the case, including all those addressed in the Reclassification Decision, are relevant to the current proceedings, this is not tantamount to saying that they are all instrumental, or otherwise directly relevant, to the set of observations due by 28 August 2024. Therefore, the Single Judge considers that the time limits set in the Reclassification Decision are appropriate for the Defence's preparation of these observations and finds that the Defence did not show any good cause to vary them. The Single Judge clarifies that the Defence will be able to submit additional observations, should disclosure of further documents so warrant.

Accordingly, the Single Judge rejects the Defence Request.

Thank you and kind regards.

On behalf of Judge Alexis-Windsor, Single Judge