

ANNEX A
PUBLIC REDACTED



RE: P-0455

From OTP Kony Communications [REDACTED]
Date Wed 2025-05-21 1:02 PM
To D35 Kony Defence team [REDACTED] OTP Kony Communications
[REDACTED]

[ICC] CONFIDENTIAL

[ICC] CONFIDENTIAL

Dear Defence team,

In relation to the request of 13 May we can inform that we are still in the process of reviewing whether any further information can be disclosed to you. As you can imagine, there is a multitude of sources and documents to review, which we are undertaking with the required diligence. Please note that we are mindful of rule 81(1) of the Rules, which will also guide our response to you in due course.

Kind regards,

OTP KONY team

From: D35 Kony Defence team [REDACTED]
Sent: 20 May 2025 11:01
To: OTP Kony Communications [REDACTED]; D35 Kony Defence team
[REDACTED]
Subject: RE: P-0455

[ICC] CONFIDENTIAL

[ICC] CONFIDENTIAL

Dear OTP,

Thank you for your email.

We would be grateful for any updates you are able to share in relation to our 13 May request.

Kind regards,
Kony Defence Team

From: OTP Kony Communications [REDACTED]
Sent: 14 May 2025 10:53

To: D35 Kony Defence team [REDACTED]

Cc: OTP Kony Communications [REDACTED]; [REDACTED]
[REDACTED]

Subject: RE: P-0465

[ICC] CONFIDENTIAL

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Dear Defence team,

We acknowledge receipt of your request and will revert as soon as possible,

Kind regards,

OTP Kony team

From: D35 Kony Defence team [REDACTED]

Sent: 13 May 2025 16:39

To: [REDACTED]

Cc: OTP Kony Communications [REDACTED]; [REDACTED]
[REDACTED]; D35 Kony Defence team [REDACTED]

Subject: RE: P-0465

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[ICC] CONFIDENTIAL

Dear OTP,

Thank you for your response.

Prior to engaging with the issue of whether there are legitimate concerns that disclosure to the public of P-0455's status as a witness would pose risk of harm, we respectfully request disclosure, with minimum appropriate redactions, of any material, including but not limited to reports, memoranda and correspondence, supporting the Prosecution's risk assessment, and justifying the Prosecution's designation of confidentiality.

Sincerely,

Kony Defence Team

From: [REDACTED]

Sent: 13 May 2025 13:42

To: D35 Kony Defence team [REDACTED]

Cc: OTP Kony Communications [REDACTED]; [REDACTED]
[REDACTED]

Subject: RE: P-0465

[ICC] CONFIDENTIAL

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Dear [REDACTED] dear Defence team,

In response to your question, the Prosecution does not intend to submit a request pursuant to rule 87 of the Rules for P-0455, which we understand to apply only to oral testimony before a Chamber. Further, in our view, recourse to this provision is not necessary to ensure the confidentiality of witness identities vis-à-vis the *public*, due to the measures already available to the Prosecution in the Court's statutory regime.

For all witnesses, disclosed to the defence in written form, including those the Prosecution seeks to rely on for the purposes of the confirmation hearing, it is the Prosecution's prerogative *and* obligation to designate as confidential any information, which cannot legitimately be made public at this stage of the proceedings. Article 68(1) mandates that the Prosecution take such measures [to protect the safety, physical and psychological well-being dignity and privacy of victims and witnesses] particularly during the investigation and prosecution phase. Further, article 68(2) expressly states that an exception to the principle of public hearings provided for in article 67, the Court may, to protect victims and witnesses [REDACTED] conduct any part of the proceedings in camera or may allow for the presentation of evidence by electronic or other special means. Flowing from these principles, the Protocol for Handling Confidential Information applied in this case defines confidentiality and requires that Parties and participants shall not reveal to third parties that the witness is involved with the activities of the Court or the nature of such involvement (para. 12).

Against this background it is the consistent practice at the Court to discuss witness evidence at the confirmation stage publicly *only* if revealing the information would not pose an objectively justified risk of harm to the witness.

Among other reasons, P-0455's status as a witness is confidential because there are legitimate concerns that disclosure to the public of his status as a Prosecution witness would pose risk of harm especially to his immediate family. In balancing the facts necessitating the designation as confidential with the principle of publicity, the Prosecution also needs to take the stage of the proceedings into account. At this stage, the Prosecution's investigations have not been closed with regard to the Kony case. Further, it is unclear whether and when a trial would commence. Like other witnesses in this case, P-0455 is legitimately protected by the Prosecution's designation of confidentiality based on the Prosecution's individual risk assessment conducted for its witnesses. This does not mean, that the Prosecution would oppose referencing P-0455 even by name, [REDACTED]
[REDACTED]

Please do not hesitate to liaise with us in advance of the confirmation hearing regarding any of the Prosecution's witnesses to discuss whether and to what extent information can be made public.

Kind regards,

[REDACTED]

From: D35 Kony Defence team [REDACTED]
Sent: 12 May 2025 14:19
To: [REDACTED]
Cc: D35 Kony Defence team [REDACTED]; OTP Kony Communications [REDACTED]
Subject: RE: P-0465

[ICC] CONFIDENTIAL

[ICC] CONFIDENTIAL

Dear [REDACTED],

Could you please advise whether the Prosecution intends to make a Rule 87 application for protective measures for [REDACTED] regarding his name, or any other information which could lead to his identification, being withheld from the public at the confirmation hearing?

We note the Chamber's acknowledgement that: "the Prosecution 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, save for those to be called *viva voce* at the confirmation of charges hearing (ICC-02/04-01/05-490, para. 20 and ICC-02/04-01/05-537, para. 10)".

Best Wishes,

[REDACTED]

From: [REDACTED]
Sent: 08 May 2025 16:57
To: [REDACTED]
Cc: D35 Kony Defence team [REDACTED]; OTP Kony Communications [REDACTED]
Subject: RE: P-0465

[ICC] CONFIDENTIAL

[ICC] CONFIDENTIAL

Dear [REDACTED]

We have re-assessed the confidentiality designation of the witness P-0455 again following your request. In this assessment, we have reviewed not only P-0455 own current security situation but also that of his family members, [REDACTED]. Based on the information available to the Prosecution, we conclude that were his cooperation with the Court as a witness in the case against Mr Kony to become known, at this time, there would be an objectively justifiable risk of harm to persons part of his immediate and wider family [REDACTED]. Further, P-0455, [REDACTED], has also informed the Prosecution, of these concerns and that therefore his status as a witness, including all documents aligned with his interview, should remain confidential. At this stage of the proceedings, on balance, the Prosecution therefore maintains its designation of confidentiality of the witness.

We will continue to keep the issue under review.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: 06 May 2025 14:57
To: [REDACTED]
Cc: D35 Kony Defence team [REDACTED]
Subject: Re: P-0465

[ICC] CONFIDENTIAL

Oops!

Obviously, that last email should have been titled P-0455

[REDACTED]

From: [REDACTED]
Sent: Tuesday, May 6, 2025 1:23 PM
To: [REDACTED]
Cc: D35 Kony Defence team [REDACTED]
Subject: P-0465

[ICC] CONFIDENTIAL

Dear [REDACTED],

Further to our conversation this morning, I wonder if you could help me understand the prosecution's position concerning the status of P-0465 [REDACTED].

Whilst I understand that the prosecution asserts that the contents of his interviews is confidential, am I right to assume that his status as an OTP witness is not the subject of any protective measures? I imagine, from our discourse, that this is a matter on which you will wish to consult with [REDACTED], nonetheless, I look forward to hearing from you at your earliest convenience.

Best Wishes,

[REDACTED]

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