

ANNEX 3

PUBLIC

From: Pre-Trial Chamber III Communications

Sent: 10 April 2025 16:15

To: D35 Kony Defence team

Cc: Kony LRV Team OPCV; OTP Kony Communications; Chamber Decisions Communication; Court Management-Court Records; Pre-Trial Chamber III Communications

Subject: ICC-02/04-01/05 – Single Judge Decision on the Defence Request to respond to the Prosecution’s additional submissions on viva voce witnesses – public

Dear Counsel,

The Single Judge, having noted the Defence request below, clarifies that the Chamber will decide on the need for responses to the OTP’s additional submissions on the matter of viva voce witnesses after having received and considered those submissions.

Thank you and kind regards.

On behalf of Judge Alexis-Windsor, Single Judge

From: D35 Kony Defence team [REDACTED]

Sent: 10 April 2025 11:56

To: Pre-Trial Chamber III Communications [REDACTED]

Cc: D35 Kony Defence team [REDACTED]; Kony LRV Team OPCV [REDACTED]; Chamber Decisions Communication [REDACTED]; Court Management-Court Records [REDACTED]; OTP Kony Communications [REDACTED]

Subject: RE: ICC-02/04-01/05 – Order to the Prosecution to provide supplementary information as regards the request to hear viva voce witnesses at the confirmation hearing (ICC-02/04-02/05-579) - public

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Pre-Trial Chamber,

The Defence would be grateful for confirmation that it has the right to respond to these additional submissions by 22 April 2025.

Thank you and kind regards,

Kony Defence Team

From: Pre-Trial Chamber III Communications [REDACTED]

Sent: 10 April 2025 11:14

To: OTP Kony Communications [REDACTED]

Cc: D35 Kony Defence team [REDACTED]; Kony LRV Team OPCV [REDACTED]; Chamber Decisions Communication [REDACTED]; Court Management-Court Records [REDACTED]; Pre-Trial Chamber III Communications [REDACTED]

Subject: ICC-02/04-01/05 – Order to the Prosecution to provide supplementary information as regards the request to hear viva voce witnesses at the confirmation hearing (ICC-02/04-02/05-579) - public

[ICC] RESTRICTED

Dear Prosecution,

The Single Judge, having noted the ‘Prosecution’s submission of witness materials and related requests for protective measures, witness preparation, and testimony via video link’ (ICC-02/04-01/05-579), recalls that, as stated in the Chambers Practice Manual, the ‘use of live evidence at the confirmation hearing should be exceptional and should be subject to specific authorisation by the Pre-Trial Chamber. The parties must satisfactorily demonstrate that the proposed oral testimony cannot be properly substituted by a written statement or other documentary evidence’.

The Single Judge is mindful of the submissions contained in paragraph 16 of 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’ (ICC-02/04-01/05-490), to the effect that witnesses should be called viva voce at the confirmation hearing in this case ‘*due to the exceptional nature of the proceedings in absentia*’ and with a view to ‘*[g]iving a voice*’ to those victims who were not represented in the Ongwen proceedings. However, those submissions are too generic and broad in nature, and fail to address the reasons why the proposed oral testimony ‘cannot be properly substituted by a written statement or other documentary evidence’.

Accordingly, the Prosecution is instructed to supplement the Request with specific and precise information to this effect, by no later than **Monday 14 April 2025**.

Thank you and kind regards.

On behalf of Judge Alexis-Windsor, Single Judge

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