

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/21

Date: 4 October 2024

TRIAL CHAMBER VI

Before:

**Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez
Judge Keebong Paek, Alternate Judge**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

Public Redacted

Decision on the Prosecution's Request for In-Court Protective Measures for P-0529, P-2239 and P-0342

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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Ms Jennifer Naouri
Mr Dov Jacobs

Legal Representatives of Victims

Ms Sarah Pellet

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
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Reparations Section**

Other

TRIAL CHAMBER VI of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64(2), 64(6)(e), 64(7), 67, and 68 of the Rome Statute (the ‘Statute’), rule 87 of the Rules of Procedure and Evidence (the ‘Rules’), and regulation 42 of the Regulations of the Court (the ‘Regulations’), issues this ‘Decision on the Prosecution’s Request for In-Court Protective Measures for P-0529, P-2239 and P-0342’.

I. PROCEDURAL HISTORY

1. On 21 September 2022, the Chamber issued the Decision on the Prosecution’s Request for In-Court Protective Measures (the ‘First Protective Measures Decision’).¹
2. On 20 April 2023, the Chamber issued the Decision on the Prosecution’s Second Request for In-Court Protective Measures (the ‘Second Protective Measures Decision’).²
3. On 5 March 2024, the Chamber issued the Decision on the Prosecution’s Third Request for In-Court Protective Measures (the ‘Third Protective Measures Decision’).³
4. On 26 August 2024, the Registry filed its ‘Ninth Periodic Report of the Registry on the Security and Political Situation in the Central African Republic’ covering the period between 16 May and 15 August 2024 (the ‘Ninth Report’).⁴
5. On 10 September 2024, the Office of the Prosecutor (the ‘Prosecution’) requested that the Chamber grant in-court protective measures for P-0529 and P-2239 (the ‘First Request’).⁵

¹ Decision on the Prosecution’s Request for In-Court Protective Measures, 21 September 2022, [ICC-01/04-01/21-481-Red](#). A confidential version was issued simultaneously (ICC-01/14-01/21-481-Conf).

² Decision on the Prosecution Second Request for In-Court Protective Measures, 4 May 2023, [ICC-01/14-01/21-605-Red](#). A confidential version was filed on 20 April 2023 (ICC-01/14-01/21-605-Conf).

³ Decision on the Prosecution’s Third Request for In-Court Protective Measures, 5 March 2024, [ICC-01/14-01/21-714-Red](#). A confidential version was issued simultaneously (ICC-01/14-01/21-714-Conf).

⁴ Ninth Periodic Report of the Registry on the Security and Political Situation in the Central African Republic, 26 August 2024, ICC-01/14-01/21-839-Conf.

⁵ Prosecution request for in-court protective measures for witnesses P-0529 and P-2239, 10 September 2024, ICC-01/14-01/21-853-Conf.

6. On 13 September 2024, the Chamber issued the Decision on the Prosecution's Requests for In-Court Protective Measures for P-1563 and P-3114 (the 'Fourth Protective Measures Decision').⁶

7. On 23 September 2024, the Defence responded to the First Request, submitting that it should be rejected (the 'First Response').⁷

8. On the same day, the Common Legal Representative of Victims (the 'CLR') also responded to the First Request submitting that it be granted (the 'Victims' Response').⁸

9. On 26 September 2024, the Prosecution filed a request for in-court protective measures for P-0342 (the 'Second Request').⁹

10. On 2 October 2024, the Defence filed a response to the Second Request, submitting that it should be rejected (the 'Second Response').¹⁰

II. SUBMISSIONS

A. First Request

11. In the Request, the Prosecution seeks protective measures for two witnesses: P-0529 and P-2239.

12. In respect of P-0529, the Prosecution submits that there is an objectively justifiable risk to him if his identity is exposed.¹¹ Specifically, the Prosecution avers that 'P-0529 has a public profile linked to his professional activities, both as a

⁶ Decision on the Prosecution's Requests for In-Court Protective Measures for P-1563 and P-3114, 13 September 2024, [ICC-01/14-01/21-857-Red](#). A confidential version was filed simultaneously (ICC-01/14-01/21-857-Conf).

⁷ Réponse de la Défense à la « Prosecution request for in-court protective measures for witnesses P-0529 and P-2239 » (ICC-01/14-01/21-853-Conf), 23 September 2024, ICC-01/14-01/21-861-Conf.

⁸ Victims' response to the "Prosecution request for in-court protective measures for witnesses P-0529 and P-2239" (ICC-01/14-01/21-853-Conf), 23 September 2024, ICC-01/14-01/21-860-Conf.

⁹ Prosecution request for in-court protective measures for Witness P-0342, 26 September 2024, ICC-01/14-01/21-863-Conf.

¹⁰ Réponse de la Défense à la « Prosecution request for in-court protective measures for Witness P-0342 » (ICC-01/14-01/21-863-Conf), 2 October 2024, ICC-01/14-01/21-867-Conf.

¹¹ First Request, ICC-01/14-01/21-853-Conf, para. 7.

[REDACTED] and as [REDACTED], thus underscoring his identifiability.¹² In this regard, the Prosecution makes reference to the fact that he works as a [REDACTED] and is ‘the [REDACTED].¹³ In addition, the Prosecution also notes that P-0529 is the [REDACTED], which raises his public profile.¹⁴

13. The Prosecution further notes that during the declaration and certification process pursuant to rule 68(2)(b) of the Rules, P-0529 added that he had previously had contact with various Seleka individuals and had previously been threatened by the Seleka.¹⁵ In this respect, the Prosecution submits that if P-0529’s status as a Prosecution witness and scope of his evidence is known ‘he would be identifiable to persons belonging to the Seleka who may have an interest to retaliate against the witness out of fear of prosecution themselves.’¹⁶ In addition, the Prosecution avers that P-0529 resides in [REDACTED] and ‘does not have access to any additional protection linked to his profession or social status.’¹⁷

14. The Prosecution submits that this taken together creates an objectively justifiable risk to P-0529’s security and that of his colleagues. The Prosecution also submits that ‘increased publicity of his testimony could have a deterrent effect for the [REDACTED] as well as for [REDACTED].’¹⁸

15. In respect of P-2239, the Prosecution notes that P-2239 is [REDACTED], and subsequently detained at the OCRB alongside P-2241 and P-2400.¹⁹ The Prosecution notes that ‘[h]is testimony implicates high level Seleka officials and the risk of reprisals in case his identity were to be known cannot be discarded.’²⁰ Furthermore, the Prosecution submits that ‘given that [REDACTED], were granted [protective measures], public disclosure of P-2239’s identity and related evidence could

¹² First Request, ICC-01/14-01/21-853-Conf, para. 8.

¹³ First Request, ICC-01/14-01/21-853-Conf, para. 8.

¹⁴ First Request, ICC-01/14-01/21-853-Conf, para. 8.

¹⁵ First Request, ICC-01/14-01/21-853-Conf, paras 10-11.

¹⁶ First Request, ICC-01/14-01/21-853-Conf, para. 12.

¹⁷ First Request, ICC-01/14-01/21-853-Conf, para. 12.

¹⁸ First Request, ICC-01/14-01/21-853-Conf, para. 13.

¹⁹ First Request, ICC-01/14-01/21-853-Conf, paras 16-17.

²⁰ First Request, ICC-01/14-01/21-853-Conf, para. 18.

compromise the protective measures granted by the Chamber on disclosure of the identities of these witnesses.’²¹

16. The Prosecution also makes reference to the fact that P-2239 is a participating victim in these proceedings, submitting that ‘if left unprotected, he would be identifiable to [REDACTED] and other co-perpetrators of the charged crimes’ and ‘[s]uch potential threat actors would have an interest to interfere with him as they may fear prosecution themselves.’²²

17. The Prosecution further notes that risk associated with P-0529 and P-2239 are exacerbated by the ongoing security situation in the Central African Republic, which is a ‘factor that must be taken into consideration’.²³

18. Last, the Prosecution submits that the requested protective measures do not prejudice Mr Said and do not violate his rights under article 67 of the Statute, averring that the ‘measures sought are fair and proportionate and will only have a limited impact on the public nature of the proceedings’.²⁴

B. First Response

19. In the First Response, the Defence submits that protective measures are an exception to the principle that a witness must testify publicly.²⁵ The Defence submits that after hearing the first 49 witnesses it has been difficult to maintain the public nature of the testimony when a witness is benefiting from protective measures.²⁶ The Defence submits that the content of the testimony inherently creates a risk that the witness will provide identifying information.²⁷ Therefore, the Defence argues, the Chamber’s rationale in the First Protective Measures Decision that ‘the impact of these measures on the public nature of the proceedings will be limited and proportionate to the need to protect the witnesses in question’²⁸ can reasonably be called into question and justifies

²¹ First Request, ICC-01/14-01/21-853-Conf, para. 18.

²² First Request, ICC-01/14-01/21-853-Conf, para. 19.

²³ First Request, ICC-01/14-01/21-853-Conf, paras 20-21.

²⁴ First Request, ICC-01/14-01/21-853-Conf, para. 22.

²⁵ First Response, ICC-01/14-01/21-861-Conf, para. 12.

²⁶ First Response, ICC-01/14-01/21-861-Conf, para. 14

²⁷ First Response, ICC-01/14-01/21-861-Conf, para. 14.

²⁸ First Protective Measures Decision, [ICC-01/04-01/21-481-Red](#), para. 107.

a more limited approach to granting protective measures.²⁹ The Defence also submits that respect for the public nature of the trial allows it to more easily conduct its investigative work, which would be more complex if the identities of the witnesses are concealed.³⁰

20. The Defence submits that the Prosecution has not demonstrated how the security situation in the Central African Republic would create a real, objective and personal risk for P-0529 and P-2239.³¹ In this respect, the Defence notes that the general security situation in a country cannot in and of itself justify the granting of protective measures without demonstrating such a risk to the witness.³² The Defence notes that, absent a link between the current security situation in the Central African Republic and P-0529 and P-2239, the Prosecution does not demonstrate how the risk to P-0529 and P-2239 would be personal.³³

21. In respect of P-0529 specifically, the Defence submits that by virtue of his role as [REDACTED] his name and position are known to the Central African population.³⁴ Furthermore, the Defence further submits that as [REDACTED] he has already spoken publicly of his satisfaction with holding the trial against Mr Said.³⁵ In addition, the Defence notes that P-0529 has been presented by the press as a victim of the Seleka which shows that he does not fear reprisals from the Seleka.³⁶ Last, the Defence submits that the Prosecution only makes general assertions regarding risks of repercussions and it is for the Prosecution to demonstrate a present objective risk to a particular witness before protective measures can be granted.³⁷

22. In respect of P-2239, the Defence notes the fact that P-2239 is [REDACTED] does not in itself justify the granting of protective measures.³⁸ Furthermore, the Defence observes that the Prosecution's submission regarding risks of reprisals to the witness

²⁹ First Response, ICC-01/14-01/21-861-Conf, para. 15.

³⁰ First Response, ICC-01/14-01/21-861-Conf, para. 16.

³¹ First Response, ICC-01/14-01/21-861-Conf, para. 21.

³² First Response, ICC-01/14-01/21-861-Conf, para. 21.

³³ First Response, ICC-01/14-01/21-861-Conf, para. 22.

³⁴ First Response, ICC-01/14-01/21-861-Conf, para. 23.

³⁵ First Response, ICC-01/14-01/21-861-Conf, para. 24.

³⁶ First Response, ICC-01/14-01/21-861-Conf, para. 25.

³⁷ First Response, ICC-01/14-01/21-861-Conf, paras 26-27.

³⁸ First Response, ICC-01/14-01/21-861-Conf, para. 29.

are only general and unsubstantiated, based on alleged events dating from 2013.³⁹ In addition, the Defence submits that the Prosecution has not demonstrated why P-2239 status as a participating victim places him at a higher risk of retaliation.⁴⁰

C. Victims' Response

23. In the Victims' Response, the CLRV supports the First Request. She submits that 'in light of the witnesses' particular profiles, as well as their expected testimonies, there is a real risk of retaliation should their cooperation with the Court become public, especially considering the current security and political situation in the CAR.'⁴¹ The CLRV further notes in this regard that 'victims have repeatedly stressed their vulnerable position and the permanent fear they are living in, and they continue to do so considering the unchanged security situation.'⁴²

24. The CLRV submits that 'the need for protective measures apply even more forcefully to dual status individuals' such as P-2239. The CLRV notes that for P-2239 he can still be exposed to re-traumatisation during examination and '[p]rotective measures are therefore required to avoid any unnecessary additional re-traumatisation that might occur if the Court does not address the risks for his personal safety'.⁴³

25. Last, the CLRV submits that 'the requested measures are not prejudicial to, disproportionate, or inconsistent' with the rights of the accused, nor does it curtail the Defence's ability to question the witness.⁴⁴

D. Second Request

26. In the Second Request, the Prosecution requests in-court protective measures for P-0342 'in the form of: (i) the use of a pseudonym in lieu of the Witness's name; (ii) voice and face distortion; and (iii) the use of limited closed or private session for identifying portions of the testimony.'⁴⁵ The Prosecution notes that P-0342 'is a [REDACTED] who was present when the Seleka took over power in Bangui in 2013.'⁴⁶

³⁹ First Response, ICC-01/14-01/21-861-Conf, para. 30.

⁴⁰ First Response, ICC-01/14-01/21-861-Conf, para. 31.

⁴¹ Victims' Response, ICC-01/14-01/21-860-Conf, para. 13.

⁴² Victims' Response, ICC-01/14-01/21-860-Conf, para. 14.

⁴³ Victims' Response, ICC-01/14-01/21-860-Conf, para. 15.

⁴⁴ Victims' Response, ICC-01/14-01/21-860-Conf, paras 16-17.

⁴⁵ Second Request, ICC-01/14-01/21-863-Conf, para. 1.

⁴⁶ Second Request, ICC-01/14-01/21-863-Conf, para. 2.

The Prosecution avers that there is an objective and justifiable risk to P-0342 given his profile and anticipated testimony. In this regard, the Prosecution submits that he ‘[REDACTED] alleged to have been committed’ and on one occasion was ‘forced to [REDACTED] the Seleka’s operation on BOY RABE in April 2013.’⁴⁷ The Prosecution avers therefore that P-0342 ‘has first-hand knowledge of the commission of crimes’ and is ‘personally known to former members of the Seleka including [REDACTED]’.⁴⁸

27. The Prosecution further submits that P-0342 is currently employed by [REDACTED].⁴⁹ In this regard, the Prosecution avers that the risk to P-0342 is ‘exacerbated by the prevailing security situation in [the Central African Republic], making reference to the Ninth Report which notes that there is a ‘growing hostility [REDACTED]’.⁵⁰ In these circumstances, the Prosecution submits that ‘protective measures are necessary to safeguard Witness P-0342 and his family from being targeted in the [Central African Republic] and to allow him to provide his testimony to the Court without fear.’⁵¹

E. Second Response

28. In the Second Response, the Defence reiterates a number of its general objections to protective measures as set out in paragraph 19 above.⁵² Furthermore, in respect of the security situation in the Central African Republic, the Defence submits that the general security situation cannot justify the granting of protective measures without demonstrating a real, personal and objective risk to a witness.⁵³ In respect of P-0342 specifically, the Defence avers that referring generically to the alleged existence [REDACTED] does not justify protective measures, noting that the Ninth Report is insufficiently sourced.⁵⁴

⁴⁷ Second Request, ICC-01/14-01/21-863-Conf, para. 7.

⁴⁸ Second Request, ICC-01/14-01/21-863-Conf, para. 8.

⁴⁹ Second Request, ICC-01/14-01/21-863-Conf, para. 10.

⁵⁰ Second Request, ICC-01/14-01/21-863-Conf, paras 11-12 referring to the Ninth Report, ICC-01/14-01/21-839-Conf-Anx, paras 30-31.

⁵¹ Second Request, ICC-01/14-01/21-863-Conf, para. 13.

⁵² Second Response, ICC-01/14-01/21-867-Conf, paras 12-18.

⁵³ Second Response, ICC-01/14-01/21-867-Conf, paras 20-23.

⁵⁴ Second Response, ICC-01/14-01/21-867-Conf, paras 23-24.

29. The Defence further submits that the Prosecution has not justified what the change of circumstances are since it first decided to call P-0342 which would justify protective measures at this stage.⁵⁵ Furthermore, the Defence notes that P-0342 is a [REDACTED] and is frequently called upon to express himself publicly and his name, position and [REDACTED] are publicly available online.⁵⁶ In respect of the Prosecution's submissions regarding [REDACTED], the Defence submits that the Prosecution cannot merely rely on the fact that P-0342's testimony concerns [REDACTED] to justify protective measures.⁵⁷ In this regard, the Defence submits that a number of witnesses have testified without protective measures and discussed the [REDACTED].⁵⁸

30. Last, the Defence submits that P-0342 has posted a number of his [REDACTED], including [REDACTED] in 2013 and that he has collaborated with [REDACTED] who has presented him as an observer of events.⁵⁹ The Defence notes therefore that it is public that he was [REDACTED] at the relevant time.⁶⁰ In this regard, the Defence avers that there is no reason why the witness who has openly spoken about these issues on his social networks in 2013 should not be able to testify publicly.⁶¹

III. APPLICABLE LAW

31. The Chamber recalls that in the First Protective Measures Decision it set out the applicable law regarding its approach to requests for in-court protective measures.⁶² The Chamber adopts its findings in respect of the applicable law as set out in the First Protective Measures Decision for the purpose of the present decision.

⁵⁵ Second Response, ICC-01/14-01/21-867-Conf, para. 26.

⁵⁶ Second Response, ICC-01/14-01/21-867-Conf, para. 27.

⁵⁷ Second Response, ICC-01/14-01/21-867-Conf, para. 28.

⁵⁸ Second Response, ICC-01/14-01/21-867-Conf, para. 28.

⁵⁹ Second Response, ICC-01/14-01/21-867-Conf, para. 29.

⁶⁰ Second Response, ICC-01/14-01/21-867-Conf, para. 29.

⁶¹ Second Response, ICC-01/14-01/21-867-Conf, para. 29.

⁶² First Protective Measures Decision, [ICC-01/04-01/21-481-Red](#), paras 12-19.

IV. ANALYSIS

32. Before turning to the specific protective measures sought by the Prosecution, the Chamber will address a number of the Defence's objections. In respect of the Defence's general submissions regarding the publicity of proceedings, the Chamber recalls that it has already addressed these objections in its recent decisions on protective measures.⁶³ The Chamber reiterates that the publicity of proceedings is a factor to be taken into consideration on whether to grant protective measures but that it cannot neglect its duty with regard to the protection of witnesses' safety and well-being.⁶⁴ The Chamber further notes that, while it has been difficult to maintain the public nature of testimony during hearings, this cannot be a reason to refuse protective measures. Accordingly, this submission is rejected.

33. Turning to the Defence's submissions that the general security situation in a country cannot in and of itself justify the granting of protective measures without demonstrating such a risk to the witness, the Chamber reiterates its finding in earlier decisions⁶⁵ that the security situation may still be a relevant consideration in assessing whether an objectively justifiable risk exists. As recently held in the Fourth Protective Measures Decision, the security situation in the Central African Republic is a factor that must be taken into consideration for the purposes of determining whether protective measures should be granted for witnesses.⁶⁶ Accordingly, the Defence's submissions in this respect are also rejected.

34. In respect of the Defence's submissions that the Prosecution has not identified specific risks to P-0529, P-2239 and P-0342, the Chamber notes that, as previously

⁶³ See Third Protective Measures Decision, [ICC-01/14-01/21-714-Red](#), para. 21; Fourth Protective Measures Decision, [ICC-01/14-01/21-857-Red](#), para. 26.

⁶⁴ First Protective Measures Decision, [ICC-01/14-01/21-481-Red](#), paras 12 and 14; Second Protective Measures Decision, [ICC-01/14-01/21-605-Red](#), para. 31; Third Protective Measures Decision, [ICC-01/14-01/21-714-Red](#), para. 21; Fourth Protective Measures Decision, [ICC-01/14-01/21-857-Red](#), para. 26.

⁶⁵ First Protective Measures Decision, [ICC-01/04-01/21-481-Red](#), para. 19; Third Protective Measures Decision, [ICC-01/14-01/21-714-Red](#), para. 18; Fourth Protective Measures Decision, [ICC-01/14-01/21-857-Red](#), para. 27.

⁶⁶ Fourth Protective Measures Decision, [ICC-01/14-01/21-857-Red](#), paras 27-28. See also Ninth Report, ICC-01/14-01/21-839-Conf-Anx, paras 2, 49.

explained,⁶⁷ protective measures are a preventive instrument – aimed at protecting witnesses from the possibility of physical or psychological harm in light of all the general and specific circumstances. In this regard, it is unnecessary to demonstrate that a risk has already manifested in the form of a specific and concrete threat against a witness due to their cooperation with the Court, and decisions to grant protective measures will inherently require a degree of prediction and uncertainty. For these reasons, the Defence’s submission in this respect are rejected.

35. The Chamber will now turn to the specific measures requested by the Prosecution for P-0529. The Chamber takes note of the Defence’s submissions to the effect that P-0529’s public profile shows that he does not fear reprisals, however, the Chamber also notes that P-0529 has previously been threatened by the Seleka, as well as other threat actors, and his anticipated testimony makes reference to several senior Seleka.⁶⁸ The Chamber finds that, contrary to the Defence’s submissions, given that P-0529 is publicly known, should his status as a Prosecution witness or anticipated testimony become public he could be at risk. In this regard, the Chamber notes that P-0529 resides in [REDACTED] with his family⁶⁹ and recalls that it has previously found that it is ‘reasonable to conclude that Mr Said can still count on the support of former comrades, some of whom still occupy senior positions’.⁷⁰

36. Taking the foregoing together, the Chamber is satisfied the protective measures sought are warranted in this particular instance. Specifically, the Chamber takes note of: (i) the security situation in the Central African Republic; (ii) the content and nature of P-0529’s anticipated testimony; and (iii) the fact that P-0529 has a public profile and has previously been threatened by the Seleka. On this basis, the Chamber finds that there is an objectively justifiable risk to this witness and his family should his identity

⁶⁷ First Protective Measures Decision, [ICC-01/04-01/21-481-Red](#), para. 19; Second Protective Measures Decision, [ICC-01/14-01/21-605-Red](#), para. 29; Fourth Protective Measures Decision, [ICC-01/14-01/21-857-Red](#), para. 29.

⁶⁸ See First Request, ICC-01/14-01/21-853-Conf, paras 10-12.

⁶⁹ See First Request, ICC-01/14-01/21-853-Conf, para. 12.

⁷⁰ See Second Protective Measures Decision, [ICC-01/14-01/21-605-Red](#), para. 25 referring to the Public Redacted version of the Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions, 3 March 2022, [ICC-01/14-01/21-247-Red](#), para. 27. A confidential version was filed simultaneously (ICC-01/14-01/21-247-Conf).

become public. Accordingly, the Chamber grants the protective measures sought by the Prosecution for P-0529.

37. The Chamber will now turn to the specific measures requested by the Prosecution for P-2239. The Chamber notes from P-2239's anticipated testimony that he makes reference to several high level Seleka officials⁷¹ and he was detained at the OCRB alongside several other Prosecution witnesses (P-2241 and P-2400), who have been granted protective measures.⁷² The Chamber finds that public disclosure of P-2239's identity could compromise the protective measures granted for P-2241 and P-2400. Furthermore, the Chamber further finds that public disclosure of P-2239's identity could put him at risk given that he implicates several senior Seleka in his anticipated testimony.

38. Taking the foregoing together, the Chamber is satisfied the protective measures sought are warranted in this particular instance. Specifically, the Chamber takes note of: (i) the security situation in the Central African Republic; (ii) the content and nature of P-2239's anticipated testimony; and (iii) the fact that disclosure of P-2239's identity could compromise protective measures already granted to other witnesses. On this basis, the Chamber finds that there is an objectively justifiable risk to this witness and others should his identity become public. Accordingly, the Chamber grants the protective measures sought by the Prosecution for P-2239.

39. Last, in respect of P-0342, the Chamber notes that P-0342 was a [REDACTED] in 2013. The Chamber takes note of the Defence's submissions to the effect that it appears from P-0342's prior statement that he has expressed himself publicly about the relevant events in 2013 and that therefore there is no reason why he should not be able to testify publicly.⁷³ The Chamber observes that the assessment to be carried out is whether there is an objectively justifiable risk to a witness should it become public that a witness has testified before the Court regarding these events and not whether the witness has previously made similar public statements. Nevertheless, previous public

⁷¹ See First Request, ICC-01/14-01/21-853-Conf, paras 17-18.

⁷² See First Request, ICC-01/14-01/21-853-Conf, paras 17-18.

⁷³ Second Response, ICC-01/14-01/21-867-Conf, para. 29 referring to P-0342, CAR-OTP-2008-0039, at 0049 and 0054, paras 58, 63, 96.

utterances regarding the events that are the expected subject of the witness's testimony may be a relevant consideration in assessing such risk.

40. Regarding the portions of P-0342's prior statement highlighted by the Defence, the Chamber notes that the witness stated that he [REDACTED], as a result of which he was arrested by the Seleka;⁷⁴ that following this, he would only [REDACTED] because he was terrorised and afraid of the Seleka;⁷⁵ and that he did not refer to his third detention by the Seleka [REDACTED].⁷⁶ The Chamber notes that the witness [REDACTED] in 2013. However, given his role as a [REDACTED], the Chamber is not persuaded that the impact of such publications in terms of risk can be equated to the impact of testimony that he is expected to give regarding the activities of particular individuals in the context of criminal proceedings.

41. In this regard, the Chamber notes that P-0342's anticipated testimony makes reference to being forced [REDACTED] during a Seleka operation in Boy Rabe in April 2013.⁷⁷ The Chamber observes, in this regard, that P-0342's anticipated testimony directly implicates [REDACTED]. The Chamber recalls that it has previously held that [REDACTED] has the potential to increase the risk to Prosecution witnesses given the [REDACTED].⁷⁸

42. In addition, the Chamber takes note of the fact that there is a specific hostility towards [REDACTED].⁷⁹ The Chamber further notes that P-0342 is currently employed by [REDACTED].⁸⁰ In this regard, the Chamber finds that P-0342 would be particularly at risk if his cooperation with the Court were made public.

43. Accordingly, the Chamber is satisfied the protective measures sought are warranted in this particular instance. Specifically, the Chamber takes note of: (i) the security situation in the Central African Republic, in conjunction with the fact that P-0342 [REDACTED]; (ii) the content and nature of P-0342's anticipated testimony; and

⁷⁴ P-0342, CAR-OTP-2012-0039, at 0049, para. 58.

⁷⁵ P-0342, CAR-OTP-2012-0039, at 0049, para. 64.

⁷⁶ P-0342, CAR-OTP-2012-0039, at 0054, para. 56.

⁷⁷ See Second Request, ICC-01/14-01/21-863-Conf, paras 7-8.

⁷⁸ First Protective Measures Decision, [ICC-01/04-01/21-481-Red](#), para. 17.

⁷⁹ See Ninth Report, ICC-01/14-01/21-839-Conf-Anx, paras 30-31.

⁸⁰ See Second Request, ICC-01/14-01/21-863-Conf, paras 6, 10.

(iii) the fact that P-0342 directly implicates [REDACTED]. On this basis, the Chamber finds that there is an objectively justifiable risk to this witness and others should his identity become public. Accordingly, the Chamber grants the protective measures sought by the Prosecution for P-0342.

44. Last, the Chamber notes that the Prosecution, Defence and CLRV have not filed public redacted versions of the their filings and are instructed to do so forthwith

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the First Request;

AUTHORISES in court-protective measures in the form of the use of pseudonym, face and voice distortion, and the use of private and closed sessions as and when necessary for P-0529 and P-2239;

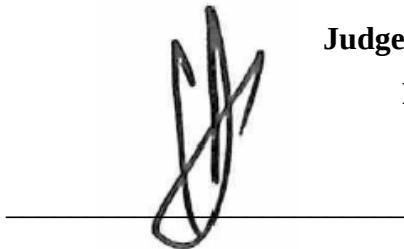
GRANTS the Second Request;

AUTHORISES in court-protective measures in the form of the use of pseudonym, face and voice distortion, and the use of private and closed sessions as and when necessary for P-0342; and

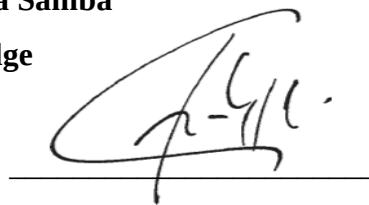
ORDERS the parties and participants to file public redacted versions of their filings as soon as possible.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

Done in both English and French, the English version being authoritative.

Dated 4 October 2024

At The Hague, The Netherlands