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

Date: **19 November 2024**

TRIAL CHAMBER VI

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

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

Public redacted version of “Prosecution request for additional in-court protective measures for Witness P-3114”, ICC-01/14-01/21-852-Conf, dated 6 September 2024

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. Pursuant to Trial Chamber VI's decision on the Prosecution's request for in-court protective measures¹ ("Decision"), articles 64 and 68 of the Rome Statute ("Statute"), and rules 87 and 134(3) of the Rules of Procedure and Evidence, the Prosecution requests additional protective measures for Witness P-3114. Specifically, the Prosecution requests additional in-court protective measures in the form of the use of a pseudonym, voice distortion and the limited use of closed or private session.

2. On 21 September 2022, Trial Chamber VI held that "face distortion [was] justified for P-3114 in the present proceedings."² However it held that: "the use of pseudonym and use of private and closed sessions in the present proceedings are not justified"³. The Chamber's Decision was "without prejudice to ... reconsidering" the need for additional measures in the future.⁴

3. The Prosecution submits that several new and compelling factors now warrant reconsideration and strongly support the need for additional protective measures in the form the use of a pseudonym, voice distortion and the limited use of closed or private session.

4. Since the Chamber's Decision was issued, the security environment at the Court, [REDACTED], has changed significantly. This has resulted in an increased objective and justifiable risk to Witness P-3114 [REDACTED].

5. In accordance with the Chamber's Decision, which stated that it was "without prejudice to the Chamber reconsidering, upon request or *proprio motu*, the need for an

¹ ICC-01/14-01/21-481-Conf, para. 91.

² ICC-01/14-01/21-481-Conf, para. 91.

³ ICC-01/14-01/21-481-Conf, para. 91.

⁴ ICC-01/14-01/21-481-Conf, para. 91.

order under rule 87 of the Rules, should this be warranted,"⁵ this calls for a reassessment of the protective measures provided.

6. Further, since the Decision⁶ of the Chamber, Witness P-3114 [REDACTED]. This includes [REDACTED].

7. The Prosecution submits that in the evolved circumstances, the additional measures requested are necessary to mitigate the increased objective risks. These include risks to [REDACTED].

8. The Prosecution finally submits that the additional measures requested are minimally restrictive, cause no prejudice and appropriately balances Mr Said's right to a fair and public hearing under articles 64(2) and 67(1) of the Statute with the Court's duty to protect victims and witnesses under articles 64(2), 68(1), and 68(2).

II. CONFIDENTIALITY

9. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, this submission is classified as confidential since it contains information that may identify Witness P-3114. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

a. The security environment at the Court has significantly evolved since the Chamber's Decision

10. Witness P-3114 is [REDACTED]. [REDACTED]. Witness P-3114 [REDACTED].

⁵ ICC-01/14-01/21-481-Conf, para. 91.

⁶ ICC-01/14-01/21-481-Conf.

11. At the same time, the security environment in which the Court [REDACTED] has become more hazardous. In [REDACTED]. [REDACTED].⁷ [REDACTED].

12. The Prosecution submits that this development justifies the imposition of additional protective measures for Witness P-3114. Specifically, additional measures are now required [REDACTED]. They are also required [REDACTED].

b. P-3114 [REDACTED]

13. The Chamber's Decision was in part because [REDACTED]."⁸

14. For this purpose, the Prosecution informs the Chamber that Witness P-3114 has [REDACTED]. [REDACTED]."⁸ [REDACTED]. Witness P-3114 [REDACTED].

15. Notwithstanding such steps, the Prosecution submits, that the new security environment and risks described above persist, regardless of Witness P-3114's [REDACTED]. Specifically, were Witness P-3114's [REDACTED]. [REDACTED].

16. The Prosecution submits that the cumulative effect of the factors listed above is that the objective risk to Witness P-3114 and others can no longer be mitigated by face distortion alone. Rather, additional protective measures in the form of a pseudonym, voice distortion and the use of private sessions are now required.

c. No prejudice will be caused by the addition of additional protective measures

17. The Prosecution submits that the additional measures requested do not impact Mr Said's right to a fair and public hearing under articles 64(2) and 67(1) of the Statute.

⁷ [REDACTED].

⁸ ICC-01/14-01/21-481-Conf, para. 91.

They are also proportionate in the circumstances and fairly balance the Court's duty to protect victims and witnesses under articles 64(2), 68(1), and 68(2).

IV. RELIEF SOUGHT

18. For the above reasons, the Prosecution respectfully requests the Chamber to impose additional protective measures for Witness P-3114 in the form of the use of a pseudonym, voice distortion and the use of private sessions.



Karim A. A. Khan KC, Prosecutor

Dated this 19th day of November 2024
At The Hague, The Netherland