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No.: ICC-02/11-01/15
Date: 20 November 2017

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera-Carbuccia
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

PUBLIC

Public redacted version of “Prosecution’s urgent application for testimony by means of video-link technology and for additional special measures with respect to Witness P-0554”, 17 November 2017, ICC-02/11-01/15-1070-Conf

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. The Prosecution urgently seeks measures to enable the testimony of Witness P-0554, currently scheduled to testify after Witness P-0404.¹ Specifically, the Prosecution requests that the Chamber allow (i) *viva voce* testimony by means of video-link technology from [REDACTED]; and (ii) special measures in the form of [REDACTED].

2. Testimony by video-link will ensure the Chamber receives Witness P-0554's evidence. Due to difficulties in contacting the Witness, the VWU has insufficient time to secure the travel documents permitting her travel to the seat of the Court in order to testify before 8 December 2017. Special measures [REDACTED] may facilitate Witness P-0554's testimony.

II. CONFIDENTIALITY

3. The Prosecution files this submission as confidential, pursuant to regulation 23*bis*(1) of the Regulations of the Court, as it contains information related to the identity of a Prosecution Witness whose testimony has been ordered to be heard *in camera*.² The Prosecution will also file a redacted version of this submission.

III. SUBMISSIONS

A. Request for testimony by means of video-link technology

4. The Prosecution seeks authorisation under article 69(2) of the Statute and rule 67(1) of the Rules for Witness P-0554 to testify *viva voce* by video-link from [REDACTED]. Practical considerations militate in favour of hearing this crime base Witness by video-link. Furthermore, this arrangement does not prejudice the rights of the Accused.

5. Due to the Prosecution's inability until recently to contact Witness P-0554, the VWU cannot obtain travel documents in time for her to testify in person at the seat of the Court before 8 December 2017. Despite repeated attempts since May 2017, the Prosecution was

¹ ICC-02/11-01/15-1060, p. 14.

² ICC-02/11-01/15-1060, p. 14.

unable to make contact with the Witness for an extended period of time. Anticipating these continued difficulties, the Prosecution foreshadowed that it might need to apply for her testimony to be heard by video-link when it sought protective and/or special measures for Witness P-0554.³

6. [REDACTED]. [REDACTED]. [REDACTED]. Due to the inability to secure travel documents in a timely manner, hearing Witness P-0554 by video-link may be the only opportunity to receive her testimony.

7. The Chamber has previously allowed the testimony of crime base witnesses to be heard by video-link for similar practical reasons.⁴ The Chamber considered that crime base witnesses' testimony is shorter than that of certain other witnesses and there is no significant difference between live testimony in The Hague and live testimony through video-link.⁵

8. [REDACTED] has been deemed an appropriate venue for testimony by video-link for the purpose of rule 67(3) of the Rules.⁶ Allowing Witness P-0554 to testify by means of video-link from [REDACTED] would fulfil the Chamber's truth-seeking function. Furthermore, such an arrangement would not be prejudicial to or inconsistent with the Accused's rights,⁷ as Counsel for the Accused and the Chamber will be able to question the Witness and observe her delivery and demeanour.

B. Request for additional special measures

9. Subject to the views of the VWU, the Prosecution requests that the Chamber grant the special measures of [REDACTED] pursuant to rule 88(1) of the Rules. The Chamber has already ordered as protective/special measures that Witness P-0554 be heard *in camera*.⁸ The Prosecution submits that Witness P-0554 should also be granted the named

³ ICC-02/11-01/15-1050-Conf-Corr, paras. 4, 33. See also e-mail messages to the Chamber from the Senior Trial Lawyer dated 14 and 16 November 2017.

⁴ See ICC-02/11-01/15-1060, paras. 30, 34-36.

⁵ ICC-02/11-01/15-1060, para. 35.

⁶ [REDACTED].

⁷ ICC-02/11-01-15-1060, para. 36.

⁸ ICC-02/11-01/15-1060, p. 14.

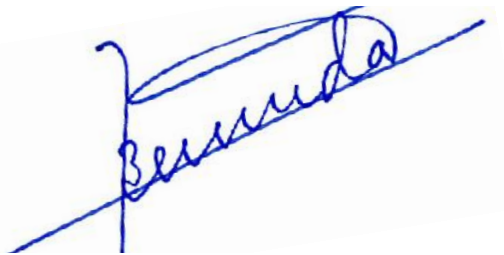
special measures for the purpose of testifying. These measures may facilitate the Witness's testimony, while having no adverse impact on the rights of the Parties and participants, in particular the Accused.⁹

10. [REDACTED]. [REDACTED]. [REDACTED].¹⁰

IV. CONCLUSION

11. For the foregoing reasons, the Prosecution urgently requests that the Chamber grant with respect to Witness P-0554

- (i) *viva voce* testimony by means of video-link technology from [REDACTED];
and
- (ii) additional special measures, namely, [REDACTED].



Fatou Bensouda, Prosecutor

Dated this 20th day of November 2017

At The Hague, The Netherlands

⁹ See ICC-02/11-01/15-1060, paras. 22, 27-28.

¹⁰ [REDACTED].