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No.: ICC-02/11-01/15

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TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
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

With Confidential Annexes A and B

**Public redacted version of "Prosecution's application for protective measures for
Witness P-0428", 1 February 2018, ICC-02/11-01/15-1117-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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Other

Introduction

1. The Prosecution requests protective measures for Witness P-0428 (the “Witness”), in accordance with article 68(1) of the Rome Statute (“Statute”) and rule 87 of the Rules of Procedure and Evidence (“Rules”).
2. The Chamber authorised the submission of evidence provided by Witness P-0428 into the record of this case pursuant to rule 68(2)(b) of the Rules.¹ In the event that the Chamber is minded at any time to publicise this written evidence, the Prosecution requests that Witness P-0428’s identity not be revealed publicly, in order to protect her safety and security. Towards this end, the Prosecution requests: (i) certain redactions to Witness P-0428’s submitted written statement, as detailed in Annex A;² ii) that Parties and participants to the proceedings be prohibited from disclosing Witness P-0428’s identifying information to a third party in accordance with rule 87(3)(b) and; (iii) that the Witness’s pseudonym is used, *in lieu* of the Witness’s name in accordance with rule 87(3)(d).
3. These measures are necessary in light of a concrete, objectively justifiable risk to the safety and security of the Witness, and are proportionate to the rights of the Accused. As such, the requested measures are not prejudicial to or inconsistent with the rights of the Accused to a fair, impartial and public trial. The proposed measures are the least intrusive steps that will balance the interests of the public, the Parties, participants and the Witness.

Confidentiality

4. The Prosecution files this submission and its annexes as confidential, pursuant to regulation 23*bis*(1) of the Regulations of the Court (“Regulations”), as it contains information related to the identity of a Prosecution witness. This also conforms

¹ ICC-02/11-01/15-629-Conf, paras. 9-15 and p. 18; ICC-02/11-01/15-683-Conf-Anx1, ICC-02/11-01/15-723-Conf-Anx and ICC-02/11-01/15-950-Conf, para. 75.

² [REDACTED] at Annex A.

with the guidance provided by the Chamber that applications under rule 87 of the Rules should be filed confidentially.³

Submission

Material provided by Witness P-0428

5. At the time relevant to the charges, Witness P-0428 was [REDACTED]. She provided a statement⁴ and three annexes⁵ to the Prosecution, [REDACTED].
6. The Chamber authorised the submission of this material into the record of the case pursuant to rule 68(2)(b) of the Rules on the condition that a “declaration by the witness, as provided for in Rule 68(2)(b) of the Rules, is filed in the record of the case.”⁶ This declaration⁷ and an amendment thereto⁸ were subsequently filed by the Registry.

Security concerns resulting from the personal circumstances of Witness P-0428

7. The Prosecution seeks protective measures to prevent public disclosure of Witness P-0428’s identity as a witness, as publicly revealing this information could compromise her safety and security.
8. Witness P-0428 faces security concerns due to her (i) [REDACTED], and (ii) [REDACTED]. Witness P-0428 [REDACTED]. As mentioned above, she was [REDACTED].
9. [REDACTED].⁹ [REDACTED].¹⁰ [REDACTED].¹¹

³ ICC-02/11-01/15-498-AnxA, para. 57; ICC-02/11-01/15-205-AnxA, para. 63.

⁴ [REDACTED].

⁵ [REDACTED].

⁶ ICC-02/11-01/15-629-Conf, paras. 9-15 and p. 18.

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

10. In addition, Witness P-0428 informed investigators that during the months of December 2010 – January 2011, [REDACTED].¹² [REDACTED]. [REDACTED], may still carry a risk to Witness P-0428 today.
11. While Witness P-0428 is [REDACTED] in Côte d'Ivoire [REDACTED]. She [REDACTED] working in Abidjan [REDACTED]. [REDACTED]. However, since Witness P-0428 is [REDACTED].
12. [REDACTED], Witness P-0428 is more vulnerable to possible security threats [REDACTED], should it become known that she collaborated with the Prosecution and the Court in the current proceedings. Moreover, the public disclosure of her cooperation with the Prosecution and the Court could revive [REDACTED]. As such, protective measures are necessary to mitigate the risk of public exposure of Witness P-0428's status as a witness.
13. In addition, Witness P-0428 has voiced concerns that public disclosure of her collaboration with the Prosecution would also adversely affect [REDACTED]. The public disclosure of her identity as a Prosecution witness may have a negative impact on [REDACTED], as she will be perceived as having provided evidence against the Accused, particularly by members of pro-Gbagbo establishment and media.
14. The identity of the Witness, though withheld from the public, is known by the Defence. Furthermore, evidence provided by her has already been submitted on the record of the case pursuant to rule 68(2)(b), as mentioned above. Therefore, the requested protective measures will have no effect on the Defence's access to the substance of this witness's evidence.

Conclusion

15. For the foregoing reasons, the Prosecution requests that the Chamber grant protective measures to Witness P-0428, as follows:

¹² [REDACTED].

- (i) that certain redactions to Witness P-0428's submitted written statement, as detailed in Annex A, be applied in the event that it is publicised;
- (ii) that Parties and participants to the proceedings be prohibited from disclosing Witness P-0428's identifying information to a third party in accordance with rule 87(3)(b) of the Rules and;
- (iii) that the Witness's pseudonym is used, *in lieu* of the Witness's name in accordance with rule 87(3)(d) of the Rules.



Fatou Bensouda, Prosecutor

Dated this 26th day of April 2018

At The Hague, The Netherlands