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**No. ICC-01/12-01/18
Date: 28 January 2022**

TRIAL CHAMBER X

Before: Judge Kimberly Prost, Single Judge

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
THE PROSECUTOR v. *AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD***

Public redacted version of

Decision on in-court protective measures for witnesses called by the LRVs

To be notified in accordance with Regulation 31 of the *Regulations of the Court* to:**The Office of the Prosecutor**

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Judge Kimberly Prost, acting as Single Judge of Trial Chamber X of the International Criminal Court, in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, having regard to Articles 64(2), 64(6)(e), 64(7) and 68 of the Rome Statute (the ‘Statute’), Rule 87 and 132bis(5)(b) of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 20 of the Regulations of the Court, issues the following ‘Decision on in-court protective measures for witnesses called by the LRVs’.

I. Procedural history

1. On 1 December 2021, the Chamber issued its ‘Decision on LRVs requests to present evidence and views and concerns’, authorising the Legal Representatives of Victims (the ‘LRVs’) to call two witnesses and setting relevant deadlines.¹
2. On 11 January 2022, the LRVs filed a request seeking in-court protective measures for both witnesses it intends to call (the ‘Request’).²
3. On 24 January 2022, the VWU filed observations on the Request (the ‘VWU Observations’).³ The parties have not filed responses to the Request.

II. Submissions and analysis

4. The LRVs request in-court protective measures for both V-0001 and V-0002 in the form of pseudonym, face and voice distortion, and use of private/closed sessions. It submits that both witnesses face objective risks in light of the security situation in Mali and their particular circumstances.⁴ In rendering the present decision, the Single Judge has duly taken into account the security situation in Mali and its various regions.⁵

¹ ICC-01/12-01/18-2063-Conf (a public redacted version was issued on the same date.)

² Requête sur le fondement de la règle 87 aux fins de mesures de protection pour les témoins des Représentants légaux des victimes, ICC-01/12-01/18-2085-Conf-Exp.

³ Victims and Witnesses Unit’s Observations on the “Requête sur le fondement de la règle 87 aux fins de mesures de protection pour les témoins des Représentants légaux des victimes” (ICC-01/12-01/18-2085-Conf-Red), ICC-01/12-01/18-2092-Conf.

⁴ Request, ICC-01/12-01/18-2085-Conf-Red, paras 8-11

⁵ See Second Registry Report on the Security Situation in Mali, 3 July 2020, ICC-01/12-01/18-928-Conf-Exp (confidential redacted version filed on the same date).

A. V-0001 (a/45345/18)

5. V-0001 is an alleged victim of forced marriage [REDACTED].⁶ The LRVs submit that the witness [REDACTED] suffered from trauma and community stigmatisation.⁷ Having noted the special status of victims of sexual and gender based crimes, the LRVs request the aforementioned in-court protective measures.⁸
6. The VWU notes that V-0001 [REDACTED].⁹ The VWU further informs the Chamber that [REDACTED].¹⁰ The VWU also notes that V-0001 expressed considerable concerns regarding potential harassment and stigmatisation by her local community.¹¹ Accordingly, to ensure the witness's security and avoid further community stigmatisation, the VWU supports the in-court protective measures requested by the LRVs.
7. The Single Judge recalls that in-court protective measures may be granted to ensure the security of witnesses and also to protect their dignity, privacy and well-being.¹² In this regard, the Single Judge emphasises the special status of victims of crimes of sexual or gender-based violence under Article 68(1) and (2) of the Statute, who benefit from special and increased protection in proceedings before the Court.¹³
8. Having had regard to the information provided by the LRVs and the VWU on the witness's particular circumstances, the Single Judge is satisfied that an objectively justifiable risk for V-0001's safety as well as to her well-being, dignity and privacy has been demonstrated. In particular, the Single Judge considers that V-0001 [REDACTED] would be at risk of further community

⁶ Request, ICC-01/12-01/18-2085-Conf-Red, para. 13.

⁷ Request, ICC-01/12-01/18-2085-Conf-Red, paras 14-17.

⁸ Request, ICC-01/12-01/18-2085-Conf-Red, paras 18-19.

⁹ VWU Observations, ICC-01/12-01/18-2092-Conf, para. 5.

¹⁰ VWU Observations, ICC-01/12-01/18-2092-Conf, para. 6.

¹¹ VWU Observations, ICC-01/12-01/18-2092-Conf, para. 7.

¹² Eighth Decision on in-court protective measures for witnesses, 14 April 2021, ICC-01/12-01/18-1414-Conf-Exp, para. 40 (confidential redacted and public redacted versions filed on the same date).

¹³ Eighth Decision on in-court protective measures for witnesses, ICC-01/12-01/18-1414-Red2, para. 40; Decision on Prosecution request relating to protective measures for P-0543, 22 April 2020, ICC-01/12-01/18-765-Conf-Exp, para. 24 (confidential redacted version filed on the same date; public redacted version filed on 18 May 2020).

stigmatisation should their identity be revealed to the public. Accordingly, the Single Judge grants V-0001 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions. The LRVs are reminded to send an email indicating which areas of her expected testimony are suggested to be elicited in private session and/or closed sessions.¹⁴

B. V-0002 (the president of a/20455/19)

9. The LRVs note that V-0002 has kept confidential her associations with the Court even from certain family members and that the witness has grave concerns that exposing such information to the public would have a negative impact on her personal security and her professional activities.¹⁵ To mitigate these considerable risks, the LRVs request the aforementioned in-court protective measures.¹⁶
10. The VWU reports that V-0002 [REDACTED] and has consistently kept her relationship with the Court confidential due to considerable fear for her safety and the nature of her employment.¹⁷ Noting that [REDACTED] is a further cause for concern, the VWU supports the in-court protective measures requested by the LRVs, which would assist in [REDACTED], manage risks and prevent the need for more intrusive forms of protection.¹⁸
11. The Single Judge recalls her previous determination that the identity and roles of V-0002 are to remain strictly confidential and not to be revealed to the public.¹⁹ Considering that V-0002 [REDACTED], the Single Judge is of the view that an objective risk has been demonstrated and that there exists a continuing need to keep confidential her identity *vis-à-vis* the public. Notably, the Single Judge considers that revealing the witness's cooperation with the Court may also have significant repercussions on her professional activities. Accordingly, the Single Judge grants V-0002 in-court protective measures in the form of the use of a

¹⁴ Email decision of 26 March 2021 at 9:26.

¹⁵ Request, ICC-01/12-01/18-2085-Conf-Red, paras 20, 23.

¹⁶ Request, ICC-01/12-01/18-2085-Conf-Red, paras 24-25.

¹⁷ VWU Observations, ICC-01/12-01/18-2092-Conf, paras 9-11.

¹⁸ VWU Observations, ICC-01/12-01/18-2092-Conf, para. 12.

¹⁹ Email from the Chamber dated 25 May 2021 at 15:55.

pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions. The LRVs are reminded to send an email indicating which areas of her expected testimony are suggested to be elicited in private session and/or closed sessions.²⁰

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS in-court protective measures as stipulated in paragraphs 8 and 11 of the present decision.

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



Judge Kimberly Prost

Single Judge

Dated this Friday, 28 January 2022

At The Hague, The Netherlands

²⁰ Email decision of 26 March 2021 at 9:26.