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**International
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TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

SITUATION IN UGANDA

IN THE CASE OF

THE PROSECUTOR v. DOMINIC ONGWEN

Public

With confidential Annex A

Public Redacted Version of “Prosecution’s application for in-court protective and special measures,” 26 October 2016, ICC-02/04-01/15-578-Conf

Source: The Office of the Prosecutor

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

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Introduction

1. The Office of the Prosecutor (“Prosecution”) hereby seeks in-court protective measures or special measures for 52 witnesses, pursuant to articles 64(6)(e) and 68 of the Rome Statute (“Statute”) and rules 87 and 88 of the Rules of Procedure and Evidence (“Rules”).
2. The current application is based on the vulnerability of these witnesses and the need to protect their physical and psychological well-being, dignity, and privacy, as mandated by article 68 of the Statute. For each witness, the Prosecution requests the least restrictive measures to achieve the necessary protection. The requested measures are consistent with the Accused’s rights.

Confidentiality

3. The Prosecution files this application and annex confidentially pursuant to regulation 23*bis* of the Regulations of the Court, because both the filing and the annex contain sensitive information related to Prosecution witnesses.

Background

4. Witness testimony in this case is scheduled to begin on 16 January 2017. Of the 121 witnesses on its witness list,¹ the Prosecution currently intends to call 69 witnesses to testify live before the Trial Chamber (“Chamber”), including video link and rule 68(3) witnesses. Most of those witnesses currently face no acute security risk. However, forty-two of them were abducted by the LRA as children, and ten were victims of sexual or gender-based violence. Many witnessed, and some were forced to participate in, gruesome crimes. As discussed below, their experiences, already traumatic, have left them vulnerable to re-traumatisation as a result of testifying.

¹ The figure 121 includes Witness P-0001, whom the Prosecution requested leave to add to its witness list on 24 October 2016. *See* ICC-02/04-01/15-577.

5. On 13 July 2016, in its Initial Directions on the Conduct of the Proceedings, the Chamber ordered that “[f]or all Prosecution witnesses for whom it is reasonably foreseeable that protective or special measures are required, the relevant deadline to file these applications is 28 October 2016.”²
6. The current application includes all requests for in-court protective and special measures the need for which is reasonably foreseeable to the Prosecution at this time. The Prosecution anticipates that additional measures, or modification of some measures, could become necessary as additional information is collected by the Prosecution and the Registry, or if circumstances change.

Applicable Law

A. Rome Statute

7. Article 68(1) of the Statute requires the Chamber to “take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.” The Prosecution emphasises that this language is not limited to protecting physical safety and security, but expressly extends to protecting the psychological well-being, dignity, and privacy of witnesses.
8. Article 68(2) of the Statute creates an express exception to the general principle of public hearings. It authorises the Chamber to “conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means” in order to “protect victims and witnesses or an accused.” The same provision makes the implementation of such measures mandatory “in the case of a victim of sexual violence or a child who is a victim or a witness, unless otherwise ordered by the Court.”

² ICC-02/04-01/15-497, para. 35.

B. Rules of Procedure and Evidence

9. Rule 87 of the Rules, entitled “Protective measures,” authorises the Chamber to take measures to protect the identity of a victim or witness (or another person at risk) from the public or media. Such measures include, but are not limited to, the use of pseudonyms, technical alteration of images or voices, testimony by video link, or conducting part of the proceedings *in camera*.
10. Rule 88, entitled “Special measures,” authorises the Trial Chamber to “order special measures such as, but not limited to, measures to facilitate the testimony of a traumatized victim or witness, a child, an elderly person or a victim of sexual violence, pursuant to article 68, paragraphs 1 and 2.” An example of such a measure is the attendance of a psychologist or another support person in court during the witness’s testimony.

C. Regulations of the Registry

11. Protective and special measures are also addressed in regulations 94 and 94bis of the Regulations of the Registry. Regulation 94 identifies measures to protect the identity of witnesses, including pseudonyms, face distortion, voice distortion, private and close session, video links and such other measures as may be technically feasible.
12. Regulation 94bis recognises that special measures under rule 88 may facilitate a witness’s appearance to testify as well as protect him or her from “psychological harm by reason of the process of appearing before the Court.” It includes a non-exhaustive list of factors that may assist in assessing the vulnerability of witnesses, such as having been a victim of sexual or gender-based violence or violence against children, or expressing fear of retaliation. Regulation 94bis(3) also identifies a number of specific special measures, such as the use of video link, the presence of an accompanying support person, or measures designed to adapt the questioning of the witness to his or her needs and capacity.

D. Case Law

13. Chambers of this Court have held that protective measures under rule 87 should be granted on an exceptional basis, following a case-by-case assessment of whether they are necessary in light of an objectively justifiable risk and are proportionate to the rights of the accused.³ Evidence of direct threats is not required to establish the existence of an objectively justifiable risk.⁴
14. The Prosecution submits that the “objectively justifiable risk” required by existing rule 87 case law need not be a risk to the physical safety or security of the witness, but may relate to any of the interests specified in article 68(1), namely “the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.” This follows directly from the language of article 68(1) itself, as well as from the presumption in article 68(2) that protective measures “shall be implemented in the case of a victim of sexual violence or a child who is a victim or a witness, unless otherwise ordered by the Court.” Clearly the shared circumstance which renders protective measures especially appropriate for those two groups – victims of sexual violence and child victims – is not their personal security situation, but the degree to which their participation in the proceedings may affect their well-being, dignity and privacy.
15. Other international tribunals also provide protective measures on grounds other than security. For example, a Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY), in the *Delalic et al.* case, ordered that a victim of sexual violence testify entirely in closed session not because of security concerns, but to protect the witness’s privacy.⁵ In the *Sesay* case before

³ See, e.g., ICC-01/09-01/11-902-Red2, para. 13; ICC-01/04-02/06-824-Red, para. 5-6.

⁴ ICC-01/09-01/11-902-Red2, para. 14.

⁵ *Prosecutor v. Delalic et al.*, Decision on the Motions by the Prosecution for Protective Measures for the Prosecution Witnesses Pseudonymed “B” Through to “M,” 28 April 1997, para. 30, 40-45. See also *Prosecutor v. Tadić*, Decision on the Prosecutor’s Motion Requesting Protective Measures for Victims and Witnesses, 10 August 1995, para. 45-52 (granting protective measures for victims of sexual violence to protect their privacy and guard against re-traumatisation). An overview of the ICTY practice regarding protective measures for victims of sexual and gender-based violence can be found in Gopalan et al, *Proving Crimes of Sexual Violence*,

the Special Court for Sierra Leone (SCSL), the Trial Chamber ordered that the identities of sexual violence victims be withheld from the public, noting “the risk for re-traumatisation and rejection by the victim’s family and community.”⁶ The Prosecution submits that the approach in these cases is consistent with the provisions of the Statute and Rules discussed above and should be adopted by this Chamber.

16. With respect to special measures under rule 88, the Prosecution submits that the Chamber has broad discretion to fashion appropriate measures for vulnerable witnesses, including victims of sexual violence and violence against children.⁷ This too is consistent with domestic and international practice.⁸

Submissions

17. The Prosecution seeks protective or special measures for 52 trial witnesses. Forty-two of the Prosecution witnesses who will testify live before the Chamber were children (under 18 years old) at the time they were abducted by the LRA. The Prosecution seeks identity protection for all 42 of those witnesses, and suggests in-court support for most of them. Ten witnesses, including seven of

in Brammertz & Jarvis (eds.), *Prosecuting Conflict-Related Sexual Violence at the ICTY* (Oxford Univ. Press 2016), p. 158-166.

⁶ *Prosecutor v Sesay et al.*, CSL04-15-T, Decision on the Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004, para. 33.

⁷ See, e.g., ICC-01/04-01/06-1049, para. 32 (“The Trial Chamber also draws special attention to the vulnerability of some of the people who may be called to testify. There must be awareness of the particular characteristics of a witness which may cause the court environment to be particularly foreign and uncomfortable. In the context of the present case, for example, particular attention should be paid to any children who are called as witnesses to ensure that their psychological well-being is considered as a matter of paramount importance, pursuant to Article 68 of the Statute and Rule 88 of the Rules.”). See also H. Brady, *Protective and Special Measures for Victims and Witnesses*, in Lee, R. et al., (eds.), *The International Criminal Court, Elements of Crimes and Rules of Procedure and Evidence*, (Transnational Publishers Inc., 2001), pp. 447-450: “Rule 88 is primarily designed to allow the Court to order ‘special measures’ to facilitate the testimony of certain vulnerable victims and witnesses, such as traumatised victims or witnesses, children, victims of sexual violence and the elderly. [...]T]he drafters of Rule 88 purposely reserved to it a degree of flexibility, thus giving the Court scope to fashion orders as may be necessary and appropriate in the circumstances”.

⁸ In *Sesay et al.*, the Trial Chamber of the SCSL noted that “it is trite law that the need for special consideration to victims of sexual violence or children during their testimonials in court has been widely recognised in both domestic laws of states and in international courts.” *Prosecutor v Sesay et al.*, CSL04-15-T, Decision on the Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004, para. 32. Similarly, in *Tadić*, an ICTY Trial Chamber noted that “several states limit the public disclosure of identifying information about victims and witnesses of sexual assault.” *Prosecutor v. Tadić*, Decision on the Prosecutor's Motion Requesting Protective Measures for Victims and Witnesses, 10 August 1995, para. 47.

the child victims just mentioned,⁹ are victims of sexual or gender-based violence. The Prosecution seeks identity protection for nine of those witnesses, and in-court support for all ten of them. Nine Prosecution witnesses, including two (P-0006 and P-0269) who were child victims or victims of sexual violence, require special protection or support because of their personal or professional circumstances. In total, and as reflected in Annex A, the Prosecution requests identity protection for 48 witnesses. For four witnesses, only special measures are currently sought.

18. This application addresses the categories of in-court protective and special measures requested by the Prosecution, and explains its approach for each category. Three groups of witnesses are then discussed, starting with witnesses who were victimised as children, followed by witnesses who are victims of sexual and gender-based violence, and finally witnesses with other specific personal or professional circumstances. For all witnesses, Annex A provides additional witness-specific information in support of the requested measures. In addition, the Prosecution refers the Chamber to the previously filed witness summaries¹⁰ for details of the witness's anticipated testimony.
19. Finally, the Prosecution addresses the consistency of the requested measures with the rights of the Accused, and explains the circumstances under which additional information collected in the future may affect the measures required for some witnesses.

A. Requested Measures

20. The Prosecution seeks three general categories of in-court protective and special measures for its trial witnesses: 1) measures intended to protect a witness's identity from the public; 2) closed or private session intended to protect

⁹ Witnesses [REDACTED] were both victimised as children and victims of sexual or gender-based violence.

¹⁰ ICC-02/04-01/15-532-Conf-AnxC.

particular portions of a witness's testimony from public disclosure; and 3) measures intended to support a witness psychologically before, during, and after his or her testimony.

1. Measures intended to protect a witness's identity from the public

21. The Prosecution requests the use of a pseudonym and face or voice distortion for 48 witnesses. These measures are sought only where other measures, such as the targeted use of private session, would be inadequate to protect the witness's (or another person's) safety or his or her physical and psychological well-being, dignity, and privacy. Regarding voice distortion, the Prosecution currently requests this measure only where there is a concrete reason to believe that public transmission of the witness's voice poses a risk, [REDACTED].

2. Closed or private session intended to protect particular portions of a witness's testimony from public disclosure

22. The Prosecution will request closed or private session for some limited portions of the testimony of most of its witnesses. Such requests will be made orally at the time of testimony. They will occur primarily in two circumstances.
23. First, for all witnesses whose identity is withheld from the public through the use of a pseudonym and face or voice distortion, the Prosecution will always request that questioning which might reveal the witness's name or other identifying information be conducted in private session.
24. Second, regardless of whether a witness's identity is withheld from the public, the Prosecution intends to request private or closed session to address specific facts which are particularly private or sensitive, such as the details of sexual violence perpetrated against a witness or instances in which a witness was forced to participate in the killing of civilians or other crimes. Such testimony raises a higher than normal risk of subjecting the witness to traumatising or re-

traumatisation if broadcast publicly, due to the social stigma which such testimony may trigger and also to the intense feelings of guilt and shame the witness may feel.

25. Private session in the circumstances anticipated by the Prosecution may be characterised as an in-court protective measure under rule 87 or as a special measure under rule 88.

3. Measures intended to provide psychological support to a witness

26. For some witnesses, the Prosecution suggests special measures which involve no restriction of information from the public. One such measure is the presence of a support person during the witness's testimony. Another is the availability of mental health care before, during, and after the witness's testimony. These special measures are intended to minimise the impacts of testimony by providing psychological and emotional support to the witness.
27. The Prosecution recognises that the Registry is in some ways best positioned to determine when supportive special measures are necessary, and which measures are most appropriate. In this case, the Registry will be the only Court organ in contact with witnesses during their travel to The Hague, during breaks in their testimony, and in the immediate aftermath of their testimony. The Prosecution therefore limits itself in this application to identifying witnesses whom it believes, based on the information currently available to it, may benefit from additional support.

B. Witnesses subject to the current application

1. Witnesses victimised as children

28. Of the 52 witnesses for whom the Prosecution seeks protective or special measures, identified in Annex A, 42 were victimised by the LRA before the age of 18. Many were under 15 years of age at the time of their abduction or other

mistreatment, and a few were under 10. Moreover, every single witness in this category was a victim of a crime – typically abduction, rape or other sexual violence, or being forced to participate in atrocities – at a young age. As such, and despite the lack of acute security concerns for most of them, there are objectively justifiable risks to their psychological well-being, dignity, and privacy which call for special protections. After careful consideration and internal consultations, including with its Gender and Children Unit (GCU), the Prosecution requests that all of these 42 witnesses have their identities protected from public disclosure through the use of a pseudonym and face distortion (and in two instances, voice distortion as well).

29. The Prosecution is mindful that testifying will force these witnesses to recount painful facts in court, an experience which may cause them discomfort or even distress. Withholding their identities from the public will at least allow them to avoid recounting their experiences again (or facing questions, remarks, condolences, or even derision or abuse) to members of the public, friends, colleagues, or even family members, who learn about those experiences as a result of the witnesses' testimony. Several Prosecution witnesses have already reported feeling stigmatised by their communities as former LRA members, and that risk would be heightened by public testimony in a trial which is bound to receive substantial public attention in Uganda, particularly in the north and among communities impacted by LRA violence. This is particularly the case for witnesses who will testify about participating in crimes against civilians.¹¹
30. Additional information regarding each witness in this group and the specific measures requested by the Prosecution are set forth in Annex A. Nine of these witnesses¹² will testify by video link, and the Prosecution has sought the

¹¹ See *Prosecutor v. Tadić*, Decision on the Prosecutor's Motion Requesting Protective Measures for Victims and Witnesses, 10 August 1995, para. 79, 81, 84-86 (noting fear of retaliation of a witness who was forced to participate in sexual mutilation and permitting that witness to testify anonymously).

¹² P-0006, P-0119, P-0199, P-0275, P-0307, P-0351, P-0352, P-0366, and P-0374.

admission of those witnesses' statements pursuant to rule 68(3) of the Rules.¹³ These steps were taken in part to minimise the burden on the witnesses from testifying. If the Chamber agrees that testimony by video link and pursuant to rule 68(3) may help protect these witnesses from psychological harm and facilitate their testimony, those procedural mechanisms might also be characterised as protective or special measures under rule 87 or rule 88.

2. *Victims of sexual and gender-based violence*

31. Ten trial witnesses¹⁴ will testify about sexual violence and gender-based crimes perpetrated upon them by members of the LRA. As recognised by the ICTY in the *Tadic* case, sexual violence often has particularly devastating consequences which may have permanent detrimental impacts on the victims; testifying about the event is often difficult, particularly in public, and can result in rejection by the victim's family and community; and traditional court procedures have sometimes exacerbated the victim's ordeal during trial.¹⁵ These circumstances create an objectively justifiable risk to the witnesses' physical and psychological well-being, dignity, and privacy which calls for protective measures.
32. Based on these considerations, the Prosecution requests that nine of the witnesses in this group should have their identities protected from public disclosure through the use of a pseudonym and face distortion (and in two instances voice distortion). The Prosecution believes the one remaining witness in the group, [REDACTED], can be sufficiently protected by conducting any questioning related to sexual violence in private session and by providing in-court support.

¹³ ICC-02/04-01/15-575.

¹⁴ [REDACTED]

¹⁵ *Prosecutor v. Tadić*, Decision on the Prosecutor's Motion Requesting Protective Measures for Victims and Witnesses, 10 August 1995, para. 46.

33. Additional information regarding each witness in this group and the specific measures requested by the Prosecution are set forth in Annex A. The Prosecution has given notice that it intends to call seven of the witnesses in this group¹⁶ by video link, and it has applied to admit the witness statements of the same seven witnesses pursuant to rule 68(3) of the Rules.¹⁷ These steps were taken in part to minimise the burden of testifying. If the Chamber agrees that testimony by video link and pursuant to rule 68(3) may help protect these witnesses from psychological harm and facilitate their testimony, those measures might also be characterised as protective or special measures under rules 87 and 88.

3. Other special circumstances

34. Apart from the two broadly applicable circumstances discussed above, several Prosecution witnesses have particular personal or professional circumstances which call for protective or special measures.

a. Special personal circumstances

35. The personal circumstances of seven Prosecution witnesses require protective or special measures to safeguard their security or their physical and psychological well-being, dignity, and privacy. The specific measures requested are set forth below and in Annex A.

P-0006 and P-0269

36. The Prosecution requests the use of a pseudonym and face distortion for Witnesses P-0006 and P-0269, based on P-0006's abduction by the LRA when she was a child and on the sexual and gender-based violence both women suffered during their captivity. [REDACTED]Public broadcast of these witnesses' voices could lead to their recognition [REDACTED], and the Prosecution therefore requests voice distortion as well as a pseudonym and face distortion.

¹⁶ [REDACTED]

¹⁷ ICC-02/04-01/15-575.

37. The Prosecution intends to call P-0006 by video link, and has sought to admit her witness statement pursuant to rule 68(3) of the Rules. The Prosecution believes it would be appropriate for both P-0006 and P-0269 to be accompanied by a support person during their testimony.

P-0024

38. Witness P-0024 was living in the Lukodi IDP camp in May 2004 when it was attacked by LRA soldiers under the command of the Accused. During the attack, P-0024's four-year-old daughter was burned alive before her eyes. During her own abduction, P-0024 was forced by LRA soldiers to abandon her baby in the bush. (Fortunately, the baby was rescued and survived). Several other members of P-0024's family were killed or beaten during the attack. P-0024 understandably suffers from ongoing grief and mental distress as a result of these experiences.
39. Under these circumstances, public dissemination of P-0024's testimony would create an objectively justifiable risk of further traumatising as she might be forced to repeatedly discuss her traumatic experiences after she returns home from testifying, or at least live with the anxiety of possibly having to do so. The Prosecution therefore requests that P-0024 testify using a pseudonym and with face distortion. The Prosecution believes she should also be accompanied in court by a support person.

P-0067

40. Witness P-0067 was abducted by the LRA during the attack on the Pajule IDP camp in October 2003. During his abduction, he witnessed crimes including the killing of civilians. [REDACTED]

41. [REDACTED]Under these circumstances, the Prosecution suggests that P-0067 be accompanied by a support person and have access to a psychosocial support during his testimony and stay in The Hague.

P-0200

42. Witness P-0200 was abducted by the LRA in June 2003. [REDACTED]These experiences have left P-0200 traumatised and, in the Prosecution's view, highly vulnerable.
43. Given the abuse he suffered and the psychological state of this witness, there is an objectively justifiable risk of re-traumatisation both during his testimony and when he returns to his family and community, if he testifies publicly. The Prosecution therefore requests that P-0200 testify using a pseudonym and with face distortion, and be allowed to testify in private session about the incidents in which [REDACTED]. The Prosecution believes he should also be accompanied in court by a support person and have access to a mental health professional during his testimony.

P-0249

44. Witness P-0249 was abducted by the LRA from the Pajule IDP camp in October 2003. [REDACTED]
45. The Prosecution therefore requests that P-0249 testify using a pseudonym and with face distortion, and that he be allowed to testify in private session whenever referring to [REDACTED].

P-0286

46. Witness P-0286 was abducted by the LRA (at the age of 19) during the attack on the Abok IDP camp in June 2004. [REDACTED]

47. Based on these circumstances, identity protection does not appear necessary for P-0286. However, the Prosecution suggests that he should be accompanied in court by a support person and have access to a psychosocial support during his testimony and stay in The Hague.

b. Special professional circumstances

48. Two witnesses require protective measures based on their professional circumstances. The measures requested are set forth below and in Annex A.

P-0189

49. Witness P-0189 [REDACTED] will testify about meeting the Accused during peace talks in 2006. [REDACTED] The Prosecution therefore requests that P-0189 testify using a pseudonym and with face distortion.

P-0403

50. Witness P-0403 is an analyst in the Office of the Prosecutor. As part of his professional duties, he must occasionally travel to the field, including to situation countries and other countries in which the security situation is significantly less stable than in Uganda. During such travel, P-0403 has direct contact with witnesses, potential witnesses, representatives of governments and international and non-governmental organisations, and other third persons.

51. To protect P-0403 and those with whom he meets, and to protect the Prosecution's investigative ability, his identity as a Court employee should be protected through use of a pseudonym and face distortion. A pseudonym is necessary because P-0403's passport, and thus his name, is necessarily available to numerous people when he is on mission, [REDACTED]. If P-0403's name were mentioned publicly during his testimony, the fact of his testimony would be reflected on the Internet, and a simple search based on the name in his passport could instantly reveal his connection to the Court. Face distortion,

meanwhile, will significantly reduce the possibility that P-0403 could be recognised while on mission.

C. The requested measures are consistent with the rights of the Accused

52. The in-court protective and special measures requested herein will not adversely impact the fairness of the trial. Although the Prosecution requests that the identities of 49 witnesses be withheld from the public, the identities of all witnesses are known to the Defence and have been for some time. Defence counsel will have the same opportunity and ability to question these witnesses as if their identities were publicly known.
53. The Prosecution recognises that the requested measures, and in particular the requests for identity protection, will have some impact on the public nature of the proceedings. However, that impact is limited and justified by the circumstances of this case.
54. First, although the public will not know the identities of the affected witnesses, most of their testimony will be given in public session. Notably, the Prosecution has not (at this point) requested total closed session for any witness, notwithstanding the vulnerability of many of them, in an effort to limit the impact on the publicity of the proceedings as much as possible. Under the requested measures, closed or private session will be used only for limited portions of testimony to protect the identities of witnesses or information that is particularly private or sensitive and therefore likely to affect the psychological well-being, dignity, or privacy of the witness if broadcast publicly.
55. Second, the number of witnesses requiring protective and special measures in this case is a direct consequence of the nature of the crimes perpetrated by the Accused and others in the LRA. As a general proposition, whenever this Court hears cases of crimes perpetrated against children and crimes of sexual violence, it must be prepared to extend the necessary protections to victims and witnesses

of those crimes. That is particularly true in this case, because the Accused is alleged to be personally responsible for crimes of sexual violence and crimes specifically targeted at children, either directly or through the LRA soldiers under his command or acting in concert with him.

D. Ongoing information collection and the possibility of further applications or modification of measures

56. This application is based on information currently in the Prosecution's possession, and reflects only those witness needs that are "reasonably foreseeable"¹⁸ at this time. As discussed below, the Prosecution anticipates that additional applications may be required or some measures might need to be supplemented or modified as additional information is collected, or if there is a significant change in the circumstances of any Prosecution witness.
57. In preparation for trial, Prosecution investigators and other staff members have been meeting with Prosecution witnesses to review their relevant personal, health, and security information. On the basis of these meetings and other information, the Prosecution completes for each witness a Witness Information Form (WIF) for the Registry and an Individual Risk Assessment (IRA) for internal use. The same information is used by the Prosecution to determine whether to refer a particular witness to the Registry for additional specialised assessment or assistance.
58. This process is not complete and – by design – will not be complete before the start of trial. This is because, in order to be useful to the Prosecution, to the Registry, and ultimately to the Trial Chamber in determining whether in-court protective measures or special measures are appropriate, information regarding the personal, health, and security circumstances of witnesses must be reasonably current. The Prosecution has therefore met and planned to meet this year with

¹⁸ ICC-02/04-01/15-497, para. 35.

only approximately half of the witnesses on its witness list. Contact with the remaining witnesses will occur next year.

59. The Prosecution also recognises the important role of Registry in assisting and protecting witnesses, especially vulnerable witnesses. The Registry has already assessed several of the Prosecution's witnesses, and it will conduct additional assessments (or re-assessments) of all witnesses shortly before their testimony, with a view to recommending any protective or special measures.
60. The Prosecution anticipates that the collection of additional information described above may result in a need to supplement or modify some of the measures requested in the current application.

Conclusion

61. For the reasons set forth above, the Prosecution requests in-court protective measures and special measures for the 52 Prosecution witnesses identified in Annex A.



Fatou Bensouda
Prosecutor

Dated this 11th of November 2016
At The Hague, The Netherlands