



**Original: English**

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

**Date: 4 May 2023**

**TRIAL CHAMBER VI**

**Before:**

**Judge Miatta Maria Samba, Presiding Judge  
Judge María del Socorro Flores Liera  
Judge Sergio Gerardo Ugalde Godínez**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF**

***THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

**Public**

**Decision on the Prosecution Second Request for In-Court Protective Measures**

**Decision to be notified in accordance with Regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**

Mr Karim A. A. Khan  
Ms Holo Makwaia

**Counsel for the Defence**

Ms Jennifer Naouri  
Mr Dov Jacobs

**Legal Representatives of Victims**

Ms Sarah Pellet

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
for Participation/Reparations**

**The Office of Public Counsel  
for Victims**

**The Office of Public Counsel  
for the Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and  
Reparations Section**

Mr Philipp Ambach

---

**Other**

**TRIAL CHAMBER VI** of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64(2), 64(6)(e), 64(7), 67(1) and 68 of the Rome Statute (the ‘Statute’), rules 87 and 88 of the Rules of Procedure and Evidence (the ‘Rules’), issues this Decision on the Prosecution Second Request for In-Court Protective Measures.

## **I. PROCEDURAL HISTORY & SUBMISSIONS**

1. On 16 December 2022, the Office of the Prosecutor (the ‘Prosecution’) filed its second request for in-court protective measures (the ‘Request’).<sup>1</sup> Therein, it seeks protective measures for 15 witnesses (the ‘Witnesses’) in order to protect their identities and keep specific parts of their anticipated testimony confidential.<sup>2</sup> It also requests measures to support the Witnesses’ psychological well-being.<sup>3</sup>

2. The Prosecution submits that the Witnesses were all allowed to testify pursuant to rule 68(3) of the Rules.<sup>4</sup> In an annex to the Request (the ‘Annex of the Request’), the Prosecution lists details concerning the anticipated testimonies, including whether it requests special measures for specific witnesses and provides the reasons for which the requested protective or special measures are needed with regard to each witness.<sup>5</sup>

3. In a more general manner, the Prosecution submits that there is an objectively justifiable risk to the Witnesses’ security, due to the security situation in the Central African Republic (hereinafter ‘CAR’)<sup>6</sup> and the fact that associates of the accused or Mr Adam may retaliate against witnesses whose identity is known.<sup>7</sup>

4. The Prosecution argues that evidence of prior direct threats against a person is not a prerequisite for a chamber to find that there is an objectively justifiable risk.<sup>8</sup> Further, it submits that the status of several of the Witnesses, either as victims of crimes

---

<sup>1</sup> Prosecution’s Second Request for In-Court Protective Measures, ICC-01/14-01/21-577-Conf. A public-redacted version was filed on 16 January 2023 ([ICC-01/14-01/21-577-Red](#)).

<sup>2</sup> [Request](#), para. 2.

<sup>3</sup> [Request](#), para. 3.

<sup>4</sup> [Request](#), para. 5.

<sup>5</sup> Annex of the Request, ICC-01/14-01/21-577-Conf-AnxA.

<sup>6</sup> [Request](#), paras 10-12.

<sup>7</sup> [Request](#), paras 13-18.

<sup>8</sup> [Request](#), para. 19.

allegedly committed at the *Office Central de Répression du Banditisme* (the ‘OCRB’) or as participating victims in these proceedings places them at an increased risk of being identified or stigmatised.<sup>9</sup> Lastly, the Prosecution submits that granting the Request will not unduly prejudice the accused or be inconsistent with his rights to a fair and impartial trial.<sup>10</sup>

5. On 11 January 2023, the Common Legal Representative of Victims (the ‘CLR V’) filed her response, arguing that the Request should be granted (the ‘CLR V Response’).<sup>11</sup> The CLR V agrees with the Prosecution’s arguments with regard to the request for protective,<sup>12</sup> as well as special measures.<sup>13</sup>

6. Additionally, the CLR V requests to have a member of her team be present when three of the Witnesses, who also have the status as participating victims, testify (the ‘Request for Attendance’).<sup>14</sup> She submits that such presence could be ordered under rule 88 of the Rules as a special measure to facilitate the testimony of a traumatised witness,<sup>15</sup> that it would ‘constitute a source of comfort to the witnesses’, thereby adding to the psychological well-being of the witness<sup>16</sup> and that doing so would not unduly prejudice the accused.<sup>17</sup>

7. Also on 11 January 2023, the Defence submitted its response, seeking that the Request be rejected (the ‘Response’).<sup>18</sup> The Defence stresses the importance of the principle of publicity of the proceedings<sup>19</sup> and that encroachments of this principle must be exceptional, with the burden of proof falling on the party requesting such limitation.<sup>20</sup>

---

<sup>9</sup> [Request](#), paras 22-23.

<sup>10</sup> [Request](#), paras 26-28.

<sup>11</sup> Victims’ response to the “Prosecution’s Second Request for In-Court Protective Measures” (ICC-01/14-01/21-577-Conf), ICC-01/14-01/21-581-Conf.

<sup>12</sup> CLR V Response, paras 12-16.

<sup>13</sup> CLR V Response, paras 17-19.

<sup>14</sup> CLR V Response, para. 20.

<sup>15</sup> CLR V Response, paras 21-22.

<sup>16</sup> CLR V Response, para. 23.

<sup>17</sup> CLR V Response, para. 24.

<sup>18</sup> Réponse de la Défense à la « Prosecution’s Second Request for In-Court Protective Measures » (ICC-01/14-01/21-577-Conf), ICC-01/14-01/21-580-Conf. A public-redacted version was filed on 23 January 2023 ([ICC-01/14-01/21-580-Red](#)).

<sup>19</sup> [Response](#), paras 9-11.

<sup>20</sup> [Response](#), paras 12-15.

8. Further, the Defence submits that the reasons provided by the Prosecution do not establish an objectively justifiable risk for the Witnesses.<sup>21</sup> It requests that the Victims and Witnesses Unit (the ‘VWU’) assess the security situation for each witness before his or her appearance and that a report be produced.<sup>22</sup>

9. In respect of the request for special measures pursuant to rule 88 of the Rules for ten of the Witnesses, the Defence submits that the Prosecution does not justify those requests and argues that the Prosecution must provide additional information in order for the Defence to respond and the Chamber to decide on this part of the Request.<sup>23</sup>

## II. APPLICABLE LAW

10. The Chamber recalls its first decision pertaining to in-court protective measures (the ‘First In-Court Protective Measures Decision’)<sup>24</sup> and the applicable law contained therein.<sup>25</sup> The Chamber sees no reason to deviate from its previous decision and will apply the statutory framework in the same manner.

## III. ANALYSIS

11. As a preliminary matter, the Chamber notes that the CRLV did not file a public-redacted version of her filing and orders the CLRV to do so forthwith.<sup>26</sup>

12. The Chamber will first address the request concerning the protective measures and subsequently discuss the request for the special measures.

### *1. Request for Protective Measures*

13. The Prosecution makes a number of general arguments which apply to all Witnesses and provides further information related to each witness individually. The

---

<sup>21</sup> [Response](#), paras 27-74.

<sup>22</sup> [Response](#), para. 79.

<sup>23</sup> [Response](#), paras. 76.

<sup>24</sup> Decision on the Prosecution’s Request for In-Court Protective Measures, 21 September 2022, ICC-01/14-01/21-481-Conf. A public-redacted version was filed on 26 September 2022, [ICC-01/14-01/21-481-Red](#).

<sup>25</sup> [First In-Court Protective Measures Decision](#), paras 12-19.

<sup>26</sup> *See*, Directions on the [Conduct of the Proceedings](#), 9 March 2022, ICC-01/14-01/21-251, para. 54.

Chamber will first discuss the general points raised by both parties and then assess each of the Witnesses individually.

*i. General considerations*

14. The Prosecution invokes the security situation in CAR, describing it as [REDACTED].<sup>27</sup> The Prosecution also makes reference to a filing by the CLRV in which she says that victims live in ‘permanent fear’ due to the volatile security situation.<sup>28</sup>

15. The Defence argues that some of the material the Prosecution makes reference to dates back to 2021, which – in the eyes of the Defence – is too old to support the Prosecution’s claims concerning the security situation.<sup>29</sup> In respect of other information relied upon by the Prosecution, the Defence states that the more recent events described therein do not relate to the proceedings before this Chamber, which concern events in 2013.<sup>30</sup> Also, regarding the statement made by the CLRV, the Defence points out that this information is from 2021.<sup>31</sup> Again, the Defence argues that information older than one year cannot be the basis for an assessment of the security situation.

16. First, the Chamber notes that the Defence does not dispute that the general security situation constitutes a factor in the determination of the existence of an objectively justifiable risk. Rather, the issue relates to the types of material that can be taken into account when determining whether such a risk exists.

17. The Chamber does not agree that information older than one year cannot be relied upon when determining the existence of a general security risk. It considers that such information may still be of utility, particularly given that currently available information shows that the overall security situation in CAR has not improved as set out further in paragraph 20 below.

---

<sup>27</sup> [Request](#), para. 11.

<sup>28</sup> [Request](#), para. 12.

<sup>29</sup> [Response](#), paras 27, 44, 57.

<sup>30</sup> [Response](#), paras 28-29.

<sup>31</sup> [Response](#), para. 30.

18. Second, specifically regarding the information concerning the victims' fears, the Chamber does not believe that these concerns should be disregarded simply because they date back to 2021. While such information may become less relevant over time, it cannot be assumed that the victims' fears will have dissipated merely because one year has passed. This is particularly true when the conditions which gave rise to such fear have not changed significantly, as is the case in this instance.<sup>32</sup>

19. Regarding the Defence's objection that certain factors relied upon by the Prosecution – such as the general security situation – are not directly linked to the current proceedings, the Chamber finds that such information may still be of importance when assessing whether an objectively justifiable security risk warrants the granting of protective measures. The general security situation has an impact on how national authorities can act and provide assistance. This might have an exacerbating effect on the impact of risks or might influence the decision of potential threat actors on whether to act or not.

20. In respect to the security situation in CAR there is public information available which clearly indicates that the security situation in CAR is reason for serious concern.<sup>33</sup> The Registry equally indicates that [REDACTED].<sup>34</sup> Lastly, the Chamber recalls its finding in a previous decision that there have apparently been attempts at witness intimidation which is indicative of a fragile security situation for witnesses of the Court.<sup>35</sup>

21. Considering the above, the Chamber finds that the security situation in CAR is a factor that must be taken into consideration.

---

<sup>32</sup> See, Corrected Annex to Third Periodic Report of the Registry on the Security and Political Situation in the Central African Republic, 1 March 2023, ICC-01/14-01/21-598-Conf-Anx-Corr2.

<sup>33</sup> United Nations Security Council, Central African Republic – Report of the Secretary-General, 13 October 2022, S/2022/762, para. 23, which describes the general security situation in the country as 'volatile'. See also, United Nations Security Council, Letter dated 9 November 2022 from the Chair of the Central African Republic configuration of the Peacebuilding Commission addressed to the President of the Security Council, 10 November 2022, S/2022/840. In the Annex to the letter, the commission highlighted the following: 'The Commission is alarmed by the continuation of conflict and violence in the country and their adverse repercussions for vulnerable groups, especially woman and children.'

<sup>34</sup> [REDACTED].

<sup>35</sup> Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions, 3 March 2022, [ICC-01/14-01/21-247-Red](#), paras 27, 32.

22. Linked to this issue is the Defence submission that, because the national authorities do not consider it necessary to provide security measures to the Witnesses, it is not the Court's role to substitute itself in this role and provide security measures without reasons.<sup>36</sup> First, the Chamber stresses its duty to provide for the protection of witnesses and repeats again that it will only grant protective measures in case of an objectively justifiable risk. Second, the absence of security measures by national authorities does not necessarily indicate that these authorities concluded that there is no risk for the Witnesses. Taking the specific situation in CAR into consideration, there could be other reasons, as the Chamber observes in the latest security report issued by the Registry.<sup>37</sup> Lastly, the Chamber points out that the fact that no measures exist on the national level means that the local authorities will not take measures to mitigate a potential threat, leaving the target of this threat fully exposed.

23. The Prosecution further submits that associates of the accused or Mr Adam might retaliate against witnesses whose identity is publicly known. The Defence submits, that the Prosecution never showed the existence of any network which might support the accused.<sup>38</sup> It further contests that the evidence cited in relation to Mr Adam is sufficient to prove that he could represent a security risk for witnesses who testify before this Court.<sup>39</sup> For instance, the Defence submits that one source cited by the Prosecution is an interview with Mr Adam and rejects this as a potential source of information.<sup>40</sup>

24. The Chamber finds that there is sufficient information that Mr Adam has a position of influence over a military group.<sup>41</sup> Further, the Chamber disagrees with the Defence that the fact that certain information stems from the alleged source of a threat automatically precludes it from being taken into account. To the contrary, such information can show the intent and aims of the person in question and is therefore of importance. In the interview in question, Mr Adam affirms that he intends to take Bangui, which – should this come to fruition – may present a danger for the witnesses

---

<sup>36</sup> [Response](#), para. 59.

<sup>37</sup> [REDACTED].

<sup>38</sup> [Response](#), para. 33.

<sup>39</sup> [Response](#), paras 38-40.

<sup>40</sup> [Response](#), para. 39.

<sup>41</sup> *See*, the document indicated in footnote 15 of the Request (two links are provided, however the content of the two articles is identical). [Request](#), para. 13. The second public media outlet mentions Mr Adam in several other articles, indicating that he is in control of a military group.



testifying in the current proceedings. The Chamber recalls that the current proceedings and the allegations in the arrest warrant against Mr Adam have a factual overlap. Consequently, the anticipated testimony of the Witnesses could well be perceived as jeopardising Mr Adam, which might cause the latter or one of his supporters to retaliate against them should their identity become publicly known. Accordingly, the Chamber finds that there is a possibility that Mr Adam and/or his supporters might retaliate against witnesses, should their identity be publicly known.

25. Further, the Chamber reiterates its previous finding that it is ‘reasonable to conclude that Mr Said can still count on the support of former comrades, some of whom still occupy senior positions’.<sup>42</sup>

26. Accordingly, the Chamber will take the accused’s links with former associates and the activities of armed groups to which Mr Said may be linked, as well as Mr Adam’s announcements and available resources into account in the decision whether to grant protective measures.

27. Linked to this, is the Prosecution’s argument that, while the Witnesses [REDACTED]. The Defence submits that this argument is too generic and general to be taken into account.<sup>43</sup> The Chamber is of the view that this risk is sufficiently defined to be taken into consideration. As a result of the volatile security situation in CAR, and the potential threats from former associates of Mr Said or Mr Adam, it is [REDACTED]. Under these specific circumstances, for the reasons above, the Chamber finds that the fact that [REDACTED] must be taken into consideration.

28. The Defence also submits that the information provided by the Prosecution for each witness is too general to justify protective measures.<sup>44</sup> In particular, the Defence submits that protective measures cannot take into account the Witnesses’ expected

---

<sup>42</sup> Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions, 3 March 2022, ICC-01/14-01/21-247-Conf, para. 27. The Chamber also took this fact into account in the [First In-Court Protective Measures Decision](#), para. 17.

<sup>43</sup> Response, para. 53.

<sup>44</sup> [Response](#), paras 42-43 and 51-53.

testimonies in order to evaluate whether they might be at risk. This, according to the Defence, would ‘pre-judge the veracity’ of the Witnesses’ testimonies.<sup>45</sup>

29. The Defence misunderstands the purpose for which such information would be taken into account. As previously explained,<sup>46</sup> protective measures are a preventive instrument – aimed at protecting witnesses from the possibility of physical or psychological harm. The Chamber repeats again<sup>47</sup> that it is not required that any harm has already manifested itself because the precise purpose of such measures is to prevent potential harm from occurring. Consequently, decisions on whether to grant protective measures inherently require a degree of prediction and uncertainty. Following the Defence’s argument, the Chamber would be barred from taking into account crucial information in its decision whether it is necessary to protect the safety and well-being of a witness. Reliance on information provided by the person in this framework is fundamentally different from the assessment of evidence provided by a witness for the purposes of the judgment. For the reasons above, the Chamber rejects the Defence’s argument.

30. As previously stated, the Chamber ‘does not consider it prudent to investigate claims by witnesses that they have been threatened for the purposes of determining whether protective measures should be granted as this may expose the witness further.’<sup>48</sup>

31. The Chamber also notes the Defence’s submissions with regard to the publicity of the proceedings.<sup>49</sup> The Chamber repeats that the publicity of the proceedings is one factor in the decision on whether to grant protective measures.<sup>50</sup> However, the Chamber cannot neglect its duty with regard to the protection of the Witnesses’ safety and well-being. Thus, it will pay due consideration to all factors in its decision whether protective measures are required for each individual witness.

---

<sup>45</sup> [Response](#), paras 23, 30.

<sup>46</sup> [First In-Court Protective Measures Decision](#), para. 19.

<sup>47</sup> [First In-Court Protective Measures Decision](#), para. 19.

<sup>48</sup> [First In-Court Protective Measures Decision](#), para. 31.

<sup>49</sup> [Response](#), paras 18-20.

<sup>50</sup> [First In-Court Protective Measures Decision](#), paras 12 and 14.

32. The Chamber also notes that the Defence argues that information relied upon in support of the Request occurred during the time of the charges or shortly thereafter. In the view of the Defence these events cannot justify protective measures today since they are too dated.<sup>51</sup> The Chamber's disagrees that information should automatically be disregarded because of a lapse of time.<sup>52</sup> Depending on the nature and character, incidents might still be of relevance for the assessment of an objectively justifiable risk, even if they occurred several years ago. Consequently, the Chamber will take into account each information and assess individually whether it justifies granting protective measures.

33. Lastly, the Chamber stresses<sup>53</sup> that the present rulings are based on the submissions of the parties. Should, new information become available, or an event occur, at a later point in time, warranting the reconsideration of a specific ruling, the Chamber will do so. The Chamber also reminds the parties and the VWU to communicate any information which might negate the basis for any ruling taken by the Chamber in the current decision.

*ii. Individual assessments*

34. The Chamber will now address the request in respect of each of the Witnesses individually.<sup>54</sup> In its assessment, it is guided by the considerations set out above, especially its approach to the consideration of risk, as explained in its First In-Court Protective Measures Decision.<sup>55</sup>

a. P-0358

35. The Prosecution submits that P-0358 is expected to testify about charged incident 'h'. According to the Prosecution, he was [REDACTED], interacted with Mr Adam, [REDACTED]. The Prosecution submits that P-0358 [REDACTED] *Comité*

---

<sup>51</sup> See, for example, [Response](#), paras [REDACTED].

<sup>52</sup> See also, para. 17above.

<sup>53</sup> [First In-Court Protective Measures Decision](#), para. 15.

<sup>54</sup> All references to the Prosecution's submissions on the specific Witnesses are taken from the corresponding sections of the Annex, unless otherwise indicated.

<sup>55</sup> [First In-Court Protective Measures Decision](#), paras 17-19.

*Extraordinaire pour la Défense des Acquis Démocratiques* (the ‘CEDAD’).<sup>56</sup> The Prosecution also submits that the witness further was [REDACTED].<sup>57</sup>

36. The Prosecution submits that [REDACTED] and that P-0358’s testimony [REDACTED].

37. The Defence submits that the mere fact that P-0358 [REDACTED] is not enough to conclude an objectively justifiable risk to his security. It further points out that the Prosecution submits that P-0358 [REDACTED].<sup>58</sup>

38. The Chamber takes into consideration (i) the security situation in CAR and [REDACTED] (ii) Mr Adam’s announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-0358’s anticipated testimony and that P-0358 knows and interacted with [REDACTED]. In his testimony, P-0358 [REDACTED]. Further, [REDACTED].

39. On the basis of the above, the Chamber is of the view that there is an objectively justifiable risk should P-0358’s identity become known to the public. Accordingly, the Chamber grants the request for protective measures with regard to P-0358.

b. P-0491

40. The Prosecution submits that P-0491 is [REDACTED]. According to the Prosecution, the witness provides [REDACTED].

41. The Defence objects to granting P-0491 protective measures, arguing that there is no objectively justifiable risk for the witness.<sup>59</sup>

42. The Chamber notes (i) the security situation in CAR and [REDACTED] (ii) Mr Adam’s announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked, and (iii) the content and nature of P-0491’s anticipated testimony. The Chamber notes that, while the witness’s [REDACTED] such testimony could nonetheless be [REDACTED] which as stated above by the Chamber

---

<sup>56</sup> See also, CAR-OTP-2043-0433-R02, paras 80-95.

<sup>57</sup> See also, CAR-OTP-2043-0433-R02, paras 98-100.

<sup>58</sup> [Response](#), para. 61.

<sup>59</sup> [Response](#), para. 62.

[REDACTED]. Accordingly, based on the information provided at this point in time as well as the current security situation in CAR, the Chamber finds that there is an objectively justifiable risk should the witness's identity become public. Accordingly, the Chamber grants the request for protective measures with regard to P-0491.

c. P-0510

43. The Prosecution submits that P-0510's anticipated testimony concerns [REDACTED]. According to the Prosecution, [REDACTED]. According to the Prosecution, the witness [REDACTED].<sup>60</sup> The Prosecution further submits [REDACTED].

44. The Defence submits that the Prosecution's arguments do not suffice to show that an objectively justifiable risk exists and [REDACTED]. It also argues that, [REDACTED] and that [REDACTED] is not reason enough to justify the finding of an objectively justifiable risk.<sup>61</sup>

45. The Chamber does not agree with the Defence that [REDACTED] because they occurred in [REDACTED]. As explained above<sup>62</sup> the Chamber will determine whether information might be of use for the assessment, irrespective of the dates of the underlying events. The witness [REDACTED].<sup>63</sup> The Chamber finds that this information is of such a nature that it can still be considered for the purposes of this Request.

46. With regard [REDACTED]. Lastly, when deciding whether to grant protective measures, the Chamber will also [REDACTED].<sup>64</sup> [REDACTED].

47. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-0510's anticipated testimony. The information available shows that the

---

<sup>60</sup> See also, CAR-OTP-2017-0835-R02, paras 17-45.

<sup>61</sup> [Response](#), para. 63.

<sup>62</sup> See, para. 32.

<sup>63</sup> CAR-OTP-2017-0835-R02, paras 17-33.

<sup>64</sup> See, the Defence argument in para. 44 above.

witness [REDACTED]. Considering the above, the Chamber is of the view that there is an objectively justifiable risk should P-0510's identity become known to the public. Consequently, it grants the request for protective measures with regard to P-0510.

d. P-0622

48. The Prosecution submits that P-0622 was [REDACTED]. The Prosecution further submits that P-0622 [REDACTED]. According to the Prosecution [REDACTED].

49. The Defence submits that the Prosecution [REDACTED]. Accordingly, in the eyes of the Defence, there is no justification for any protective measures.<sup>65</sup>

50. The Chamber finds that, due to its nature and content, [REDACTED] must still be taken into consideration, despite the lapse of time. The Chamber notes that the Prosecution did not specify the source of [REDACTED] described in the Annex. However, the fact that the source of the information is not indicated does not bar the Chamber from taking it into consideration. The Chamber does not have reason to doubt the veracity of the information provided by the Prosecution. Equally, the fact that the event is [REDACTED] does not preclude the Chamber from considering it.

51. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-0622's anticipated testimony, which [REDACTED]. The [REDACTED]. Considering the above, the Chamber finds that there is an objectively justifiable risk should P-0622's identity be disclosed. Accordingly, it grants the request for protective measures in respect of P-0622.

e. P-0662

52. The Prosecution submits that P-0662's anticipated testimony [REDACTED]. The Prosecution explains that the witness is [REDACTED]. [REDACTED]. According to

---

<sup>65</sup> [Response](#), para. 64.

the Prosecution[REDACTED]. The Prosecution submits that [REDACTED]. While the witness [REDACTED].

53. The Defence submits that [REDACTED]. Furthermore, it argues that [REDACTED]. Further, the Defence remarks that the witness is [REDACTED]. Last, it argues that P-0662's [REDACTED]. For these reasons, the Defence submits that there is no objectively justifiable risk to support granting protective measures.<sup>66</sup>

54. The Chamber finds that the fact [REDACTED]. First, P-0662's anticipated testimony is still relevant to the charges, for instance [REDACTED]. Further, how P-0662's testimony will be used for the purposes of the judgment does not alter the assessment of the existence of an objectively justifiable risk. Also, the fact that [REDACTED]. Moreover, the witness's [REDACTED]. Lastly, in the eyes of the Chamber, there is a difference, in terms of a possible security risk, whether [REDACTED].

55. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-0662's anticipated testimony. The Chamber is of the view that the witness [REDACTED]. Considering the above, the Chamber finds that there is an objectively justifiable risk should the witness testify publicly and accordingly grants the request for protective measures with regard to P-0662.

f. P-1180

56. The Prosecution submits that P-1180 [REDACTED]. The Prosecution states that the anticipated testimony [REDACTED]. It argues that [REDACTED]. Lastly, the Prosecution submits that P-1180 [REDACTED].

57. The Defence submits that the Prosecution does not provide any justification for the existence of an objectively justifiable risk. According to the Defence, the

---

<sup>66</sup> [Response](#), para. 65.

information provided by the Prosecution does not in any way explain why the witness should not be testifying publicly.<sup>67</sup>

58. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-1180's anticipated testimony. The Chamber notes that P-1180 [REDACTED]. However, in P-1180's anticipated testimony [REDACTED]. The Chamber finds that [REDACTED]. Consequently, the Chamber grants the request for protective measures in respect of P-1180.

g. P-1289

59. The Prosecution submits that P-1289 will testify about [REDACTED]. According to the Prosecution, P-1289's anticipated testimony [REDACTED]. Last, it submits that [REDACTED].

60. The Defence argues that the fact that P-1289 [REDACTED] cannot justify the granting of protective measures. Furthermore, the Defence avers that the Prosecution did not provide any other information which proves the existence of an objectively justifiable risk.<sup>68</sup>

61. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-1289's anticipated testimony. The Chamber notes that [REDACTED].<sup>69</sup> In light of the above, the Chamber finds that there is an objectively justifiable security risk, should the identity of P-1289 as a witness of the Court become publicly known. Consequently, the Chamber grants the request for protective measures with regard to P-1289.

---

<sup>67</sup> [Response](#), para. 66.

<sup>68</sup> [Response](#), para. 67.

<sup>69</sup> CAR-OTP-2053-0359, para. 90.



h. P-1524

62. The Prosecution submits that P-1524 will testify about [REDACTED]. The Prosecution states that [REDACTED]. The Prosecution further submits that [REDACTED]. According to the Prosecution, [REDACTED].

63. The Defence submits that [REDACTED]. In the view of the Defence there is no information justifying the existence of an objectively justifiable security risk.<sup>70</sup>

64. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-1524's anticipated testimony. The Chamber notes that P-1524's expected testimony [REDACTED]. Consequently, the Chamber grants the request for protective measures with regard to P-1524.

i. P-1808

65. The Prosecution submits that P-1808 will testify [REDACTED]. The Prosecution argues that while P-1808 does not implicate the accused directly in any alleged crimes, [REDACTED].

66. The Defence submits that the Prosecution did not provide any information justifying the granting of protective measures and argues that there is no objectively justifiable risk for P-1808's security.<sup>71</sup>

67. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-1808's anticipated testimony. Concerning the witness's prior recorded testimony, P-1808 [REDACTED].<sup>72</sup> P-1808 further states [REDACTED].<sup>73</sup> The Chamber is of the view that these considerations justify an objectively justifiable

---

<sup>70</sup> [Response](#), para. 68.

<sup>71</sup> [Response](#), para. 69.

<sup>72</sup> CAR-OTP-2135-3754, at -3760, paras 33-36.

<sup>73</sup> CAR-OTP-2135-3754, at -3753, para. 37.

security risk should P-1808's identity become publicly known. Consequently, it grants the request for protective measures for P-1808.

j. P-1967

68. The witness is [REDACTED]. The Prosecution submits that P-1967 will testify about [REDACTED]. According to the Prosecution, the witness [REDACTED]. According to the Prosecution, the [REDACTED]. The Prosecution submits that the witness is [REDACTED].

69. The Defence submits that [REDACTED]. In the view of the Defence, any risk claimed by the Prosecution is purely speculative.<sup>74</sup>

70. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-1967's anticipated testimony. The Chamber does not consider that the lapse of time [REDACTED] prevents it from taking them into consideration. In particular, the Chamber notes that [REDACTED]. Due to [REDACTED] the Chamber finds that there is an objectively justifiable risk should P-1967 testify publicly. Accordingly, the Chamber grants the request for protective measures in respect of P-1967.

k. P-2172

71. The witness is [REDACTED]. The Prosecution submits that P-2172 will testify about [REDACTED]. The Prosecution further submits that the witness [REDACTED].

72. The Defence submits that [REDACTED]. Additionally, the Defence criticises that the Prosecution bases its argument on P-2172's account without verification. Lastly, the Defence submits that [REDACTED].<sup>75</sup>

73. The Chamber finds that [REDACTED]. As explained above, information provided by the witness [REDACTED] will not be excluded from the assessment<sup>76</sup> and

---

<sup>74</sup> [Response](#), para. 70.

<sup>75</sup> [Response](#), para. 71.

<sup>76</sup> See paras 28-29 above.

further investigations by the Prosecution on such activities are undesired.<sup>77</sup> The Chamber therefore dismisses these arguments, raised again by the Defence specifically with regard to P-2172.

74. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-2172's anticipated testimony. The Chamber notes that P-2172 [REDACTED].<sup>78</sup> [REDACTED]. Considering the above, the Chamber finds that there exists an objectively justifiable risk, should P-2172 testify publicly. Accordingly, the Chamber grants the request for protective measures with regards to P-2172.

#### 1. P-2179

75. The Prosecution submits that [REDACTED]. It argues that [REDACTED].

76. The Defence submits that the Prosecution did not submit any information which substantiates the existence of an objectively justifiable risk but only speculates about theoretical threats.<sup>79</sup>

77. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-2179's anticipated testimony. The Chamber notes that P-2179 stated that [REDACTED].<sup>80</sup> [REDACTED].<sup>81</sup> The witness indicated that [REDACTED]. On this information, the Chamber finds that there is an objectively justifiable risk should P-2179 testify publicly. Consequently, it grants the request for protective measures with regards to P-2179.

---

<sup>77</sup> First In-Court Protective Measures Decision, ICC-01/14-01/21-481-Conf, para. 31 and para. 30 above.

<sup>78</sup> CAR-OTP-2130-6313, para. 21.

<sup>79</sup> [Response](#), para. 72.

<sup>80</sup> CAR-OTP-2088-225, para. 104.

<sup>81</sup> CAR-OTP-2088-225, paras 105-106.

## m. P-2263

78. The Prosecution states that P-2263 will testify as [REDACTED]. The Prosecution states that the witness's anticipated testimony [REDACTED].

79. The Defence submits that the Prosecution does not provide any justification for the existence of an objectively justifiable risk.<sup>82</sup>

80. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-2263's anticipated testimony. The Chamber notes that [REDACTED]. Further, the anticipated testimony [REDACTED]. Taking the above into consideration, the Chamber finds that there exists an objectively justifiable security risk, should P-2263's identity be made public. Accordingly, the Chamber grants the request with regard to P-2263.

## n. P-2519

81. The Prosecution submits that P-2519 will [REDACTED]. It submits that, [REDACTED].

82. The Defence argues that the Prosecution did not provide any element which would establish the existence of an objectively justifiable risk and is just speculating about possible consequences.<sup>83</sup>

83. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the fact that Mr Said possesses the ongoing support of former comrades and (iii) the content and nature of P-2519's anticipated testimony. The Chamber notes that [REDACTED]. The witness further states that [REDACTED]. For the reasons above, the Chamber is of the view that there exists an objectively justifiable security risk, should P-2519's

---

<sup>82</sup> [Response](#), para. 73.

<sup>83</sup> [Response](#), para. 74.

identity become publicly known. Accordingly, the Chamber grants the request for protective measures with regard to P-2519.

o. P-3047

84. The Prosecution submits [REDACTED]. The Prosecution argues that [REDACTED].

85. The Defence submits that the fact that the expected testimony [REDACTED] is not sufficient to find the existence of an objectively justifiable risk.<sup>84</sup>

86. The Chamber takes into account (i) the security situation in CAR and [REDACTED] (ii) Mr Adam's announcements and available resources, as well as the activities of armed groups to which Mr Said may be linked and (iii) the content and nature of P-3047's anticipated testimony. The Chamber takes note of P-3047's prior recorded testimony [REDACTED].<sup>85</sup> Further, the Chamber notes that the witness [REDACTED]. In light of the above, the Chamber finds that there is an objectively justifiable security risk, should the identity of P-3047 as a witness become publicly known. Consequently, the Chamber grants the request for protective measures with regard to P-3047.

2. *Request for Special Measures*

87. The Prosecution requests special measures in the form of psychological support for ten of the Witnesses.<sup>86</sup>

88. As stated previously,<sup>87</sup> the Chamber 'has no reason to doubt the Prosecution's assessment of the vulnerability of the witnesses in question, but considers it necessary to hear from the VWU on this matter as it is best placed to determine the appropriateness of special measures intended to provide support to a witness closer to the time of testimony. Accordingly, the Chamber prospectively grants the special measures requested by the Prosecution, subject to the receipt of a report from the VWU prior to the witness's testimony confirming that this measure is necessary and that the witness

---

<sup>84</sup> [Response](#), para. 67.

<sup>85</sup> CAR-OTP-2130-6904, para. 46.

<sup>86</sup> [Request](#), paras 2 and 29 b)

<sup>87</sup> [First In-Court Protective Measures Decision](#), para. 24.

consents to the presence of a psychologist'.<sup>88</sup> This, in the eyes of the Chamber, also sufficiently addresses the concerns voiced by the Defence.<sup>89</sup>

89. Related to this issue is also the Request for Attendance, that a member of the CLRV team is present during the testimonies of P-1180, P-2263 and P-3047 at the video link location. The Chamber notes its previous ruling on an identical request.<sup>90</sup> Additionally, in respect of the argument that this could be ordered as a special measure under rule 88 of the Rules, the Chamber notes its finding above that the VWU is best placed to decide on the necessary measures. It does not consider that the additional presence of a member of the team of the CLRV at the video-link location is required in order to guarantee the well-being of the witness in question. Accordingly, it rejects the Request for Attendance.

---

<sup>88</sup> This report is to be sent in accordance with [First In-Court Protective Measures Decision](#), para. 101.

<sup>89</sup> See, [Response](#), para. 76

<sup>90</sup> [First In-Court Protective Measures Decision](#), paras 105-106.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**AUTHORISES**, the request for protective measures with regard to P-0358, P-0491, P-0510, P-0622, P-0662, P-1180, P-1289, P-1524, P-1808, P-1967, P-2172, P-2179, P-2263, P-2519 and P-3047;

**GRANTS** the Request with regard to the special measures for P-0510, P-0622, P-0662, P-1180, P-1289, P-1967, P-2179, P-2263, P-2519 and P-3047 under the conditions explained in paragraph 88 above;

**ORDERS** the CLRV to file a public-redacted version of her filing forthwith; and

**REJECTS** the Request for Attendance.

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



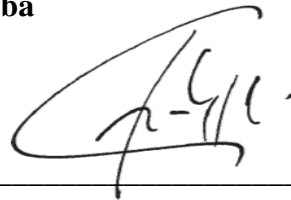
---

**Judge Miatta Maria Samba**  
**Presiding Judge**



---

**Judge María del Socorro Flores Liera**



---

**Judge Sergio Gerardo Ugalde Godínez**

Dated 4 May 2023

At The Hague, The Netherlands