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No. **ICC-02/05-01/20**  
Date of original: **25 March 2022**  
Date: **25 April 2022**

**TRIAL CHAMBER I**

**Before:** Judge Joanna Korner, Presiding Judge  
Judge Reine Alapini-Gansou  
Judge Althea Violet Alexis-Windsor

**SITUATION IN DARFUR, SUDAN**

**IN THE CASE OF  
*THE PROSECUTOR v. ALI MUHAMMAD ALI ABD-AL-RAHMAN ('ALI  
KUSHAYB')***

**Public redacted version of the  
Decision on in-court protective measures**

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

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## I. Procedural history

1. On 8 September 2021, Trial Chamber I (the ‘Chamber’) set the commencement of trial and corresponding deadlines thereto.<sup>1</sup>
2. On 4 October 2021, the Chamber adopted the ‘Directions on the conduct of proceedings’, setting out, *inter alia*, the procedure to submit applications for in court protective or special measures pursuant to Rules 87 and 88 of the Rules of Procedure and Evidence (the ‘Rules’) and establishing the deadlines for such applications on 25 February 2022.<sup>2</sup>
3. On 25 February 2022, the Office of the Prosecutor (the ‘Prosecution’) filed its request for in-court protective and special measures in respect of 59 witnesses (the ‘Request’).<sup>3</sup>
4. On 14 March 2022, the Defence filed its response, fully supporting the Request, particularly in light of the security situation in Sudan (the ‘Response’).<sup>4</sup> The Defence nonetheless notes that this should in no way be construed as any kind of admission that any risk bearing on the witnesses can be attributable to the accused or his purported supporters. Neither should this be construed as a blanket acceptance of the admissibility of evidence the Prosecution may seek to introduce through the witnesses concerned.<sup>5</sup>

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<sup>1</sup> Transcript of hearing on 8 September 2021, ICC-02/05-01/20-T-013-ENG, p. 76, line 15 to p. 79, line 13.

<sup>2</sup> Directions on the conduct of proceedings, ICC-02/05-01/20-478, paras 57-58.

<sup>3</sup> Prosecution’s request for in-court protective and special measures, ICC-02/05-01/20-609-Conf-Exp, with confidential *ex parte* Annex A. A confidential redacted version was notified on that same date, ICC-02/05-01/20-609-Conf-Red with confidential redacted Annex A and a further lesser redacted version was notified on 7 March 2022, ICC-02/05-01/20-609-Conf-Red3 with confidential redacted Annex A. A public redacted version was notified on 1 March 2022, ICC-02/05-01/20-609-Red2. A corrigendum to the confidential *ex parte* Annex A was notified on 7 March 2022, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr + Anx. *See also* email from Trial Chamber I, 3 March 2022 at 17:33, ordering disclosure to the Defence of information contained in the confidential *ex parte* version notified on 25 February 2022 by 7 March 2022.

<sup>4</sup> Defence response to Prosecution’s request for in-court protective and special measures, ICC-02/05-01/20-628-Conf, para. 3. A public redacted version was notified on that same date, ICC-02/05-01/20-628-Red.

<sup>5</sup> Response, ICC-02/05-01/20-628-Conf, para. 6.

5. On 16 March 2022,<sup>6</sup> the common legal representatives of victims submitted observations (the ‘CLR V’ and the ‘CLR V Response’).<sup>7</sup> Although the CLR V support the relief sought, they underline that that protective measures should be proportionate and the least restrictive available in order to protect the interests of victims, the rights of the accused and the principle of the publicity of proceedings. The CLR V highlight, in this respect, that the victims have a strong general interest in the trial proceedings taking place in public, to the greatest extent possible.<sup>8</sup> Noting the consultations with their clients and their own investigations, the CLR V submit that the requested in-court protective measures are justified. The CLR V also fully support the relief sought in respect of the six dual status witnesses included in the Request.<sup>9</sup> The CLR V note that they will continue monitoring the circumstances of all dual status individuals and consult with the Prosecution or engage the Trial Chamber, as needed.<sup>10</sup>

6. On the same date, the Victims and Witnesses Unit (‘VWU’) submitted observations (the ‘VWU Observations’).<sup>11</sup> The VWU stresses that it has not met with all witnesses identified in the Request but will provide individual assessments to the Chamber closer to their testimony.<sup>12</sup> Generally, the VWU states that in-court protective measures are essential for vulnerable witnesses, insider witnesses and internally or internationally relocated witnesses.<sup>13</sup> As regards the special measures, the VWU takes note of the information provided and will provide appropriate support in a timely manner, after it concludes the vulnerability assessment prior to the testimony of all witnesses, as per usual practice.<sup>14</sup>

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<sup>6</sup> See e-mail from Trial Chamber I, 28 February 2022 at 12:22, setting out deadline for observations by 16 March 2022.

<sup>7</sup> Observations on behalf of Victims on the “Confidential Redacted Version of ‘Prosecution’s request for in-court protective and special measures’ 25 February 2022”, ICC-02/05-01/20-631-Conf. A public redacted version was notified on that same date, ICC-02/05-01/20-631-Red.

<sup>8</sup> CLR V Observations, ICC-02/05-01/20-631-Conf, para. 4.

<sup>9</sup> CLR V Observations, ICC-02/05-01/20-631-Conf, paras 5-6, *referring to* P-0584, P-0913, P-0924, P-0973, P-0986, P-1018.

<sup>10</sup> CLR V Observations, ICC-02/05-01/20-631-Conf, para. 8.

<sup>11</sup> Registry’s Observations on the “Prosecution’s request for in-court protective and special measures” (ICC-02/05-01/20-609-Conf-Exp), ICC-02/05-01/20-632-Conf-Exp.

<sup>12</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 3.

<sup>13</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 4.

<sup>14</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 18-19.

## II. Legal Framework

7. Articles 64(2) and 68(1)(2) and (4) of the Rome Statute (the ‘Statute’), together with Rules 86, 87 and 88 of the Rules, provide the legal framework for the implementation of in-court protective measures and special measures in respect of witnesses in trial proceedings.

8. As noted in the Directions on the conduct of proceedings, ‘the Chamber will rule on in-court protective measures as much as possible in advance of the witnesses’ appearance, with the possibility to modify any determination on protective measures subject to further information provided by the VWU immediately prior to the testimony as necessary’.<sup>15</sup>

9. The Chamber must evaluate whether an objectively justifiable risk exists *vis-à-vis* the 59 witnesses concerned and whether the measures sought are necessary to protect their safety, physical and psychological well-being, dignity and privacy, and, where applicable, that of their families.

10. The Chamber must also bear in mind the security situation in Sudan, where applicable for a specific witness and his or her family. In this regard, the assessment of the VWU is imperative. Accordingly, as foreseen in the Directions on the conduct of proceedings cited above, the present decision may be modified if in light of VWU’s assessment prior to the testimony, new information is brought to the attention of the Chamber, including a witness’s request for in-court protective measures or special measures.

## III. Analysis

11. Before proceeding to analyse the information relating to individual witnesses, the Chamber wishes to emphasise the overriding principle, (as set out in the CLRV Response),<sup>16</sup> of the importance of proceedings being held in public, unless there are compelling reasons which mandate evidence being presented in private session and/or the identity of the witness remaining unknown to the public. The Chamber emphasises that even in the case of protected witnesses, ‘identifying information’ must be

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<sup>15</sup> Directions on the conduct of proceedings, ICC-02/05-01/20-478, para. 58.

<sup>16</sup> See para. 5 above.

interpreted strictly and thus general information related to a witness may be made public.

12. The Prosecution seeks the following types of in-court protective measures for 57 witnesses: (a) use of pseudonym, face and voice distortion; and (b) use of closed or private sessions for identifying portions of the testimony.<sup>17</sup> The Prosecution also requests authorisation to use private or closed sessions for parts of the testimony which are ‘particularly private or sensitive’ and in respect of which there is a higher risk of re-traumatisation if the testimony is broadcasted publicly (i.e. due to social stigma).<sup>18</sup> For two witnesses, P-1048 and P-1049, who are investigators, the Prosecution does not request voice distortion, but seeks all other in-court protective measures.<sup>19</sup>

13. The Chamber notes that in general, the Prosecution submits that the security situation in Sudan, and particularly in Darfur, since the military coup on 25 October 2021, [REDACTED].<sup>20</sup>

14. The Chamber further notes the Prosecution’s submission that the requested in-court protective measures will not prejudice the accused in any way, as the Defence may still conduct its own enquiries to test their evidence and despite the in-court protective measures sought, most of the testimonies will still be given in public session. In this regard, the Prosecution undertakes to use closed or private session ‘only for limited portions of testimony’.<sup>21</sup>

#### **A. Insider witnesses**

The Prosecution identifies firstly those insider witnesses who, due to the nature of their expected testimony, [REDACTED]. The Prosecution submits they may be at risk [REDACTED]. The Prosecution submits in-court protective measures are necessary so the witnesses can testify freely and without fear.<sup>22</sup>

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<sup>17</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 9-12.

<sup>18</sup> Request, ICC-02/05-01/20-609-Conf-Exp, para. 12.

<sup>19</sup> Request, ICC-02/05-01/20-609-Conf-Exp, para. 9, fn 4.

<sup>20</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 18-19. [REDACTED].

<sup>21</sup> Request, ICC-02/05-01/20-609-Conf-Exp, para. 36.

<sup>22</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 24-25.

15. As noted in the VWU Observations, [REDACTED]. In respect of the remaining insider witnesses, the VWU [REDACTED].<sup>23</sup>

16. **P-0117**, who is due to testify *viva voce*,<sup>24</sup> is a former [REDACTED]. The Prosecution submits P-0117 [REDACTED].<sup>25</sup> The Chamber notes that the Prosecution [REDACTED]. However, the Chamber notes that P-0117 [REDACTED].<sup>26</sup> Although there appears to be no specific or updated information about the witness's security situation, [REDACTED].

17. **P-0188**, who is due to testify *viva voce*, [REDACTED]. P-0188 [REDACTED] [REDACTED]. The Prosecution submits that P[REDACTED]. P-0188 [REDACTED].<sup>27</sup> The Chamber notes in respect of this witness, it [REDACTED].<sup>28</sup>

18. **P-0874**, who is due to testify *viva voce*, [REDACTED]. P-0874 took measures [REDACTED] after [REDACTED]. The Prosecution [REDACTED].<sup>29</sup> [REDACTED].<sup>30</sup>

19. **P-0885**, who is due to testify *viva voce*, is a former [REDACTED]. P-0885 [REDACTED] and has informed the Prosecution [REDACTED]. The Prosecution [REDACTED].<sup>31</sup> The Prosecution [REDACTED].<sup>32</sup> As noted in the VWU Observations, [REDACTED], [REDACTED].<sup>33</sup>

20. **P-0931**, who is scheduled to testify *viva voce*, is a former [REDACTED]. The witness also [REDACTED].<sup>34</sup> The Chamber notes that the witness [REDACTED].

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<sup>23</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 12.

<sup>24</sup> It is noted that the Annex marks the witness as Rule 68(3) but no application has been submitted before the Chamber to submit his prior recorded testimony pursuant to this provision. Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, p. 2.

<sup>25</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, p. 1.

<sup>26</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, p. 1.

<sup>27</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, p. 2.

<sup>28</sup> Transcript of hearing, 17 December 2021, ICC-02/05-01/20-T-018-CONF-ENG, p. 51, line 6 to p. 54, line 11.

<sup>29</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, p. 3.

<sup>30</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 11.

<sup>31</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>32</sup> Prosecution's submission of the List of Witnesses and the List of Evidence, ICC-02/05-01/20-551-Conf-Exp-Anx1, p. 5.

<sup>33</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 9-10.

<sup>34</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, pp. 3-4.

21. **P-0976**, who is scheduled to testify *viva voce*, is a former [REDACTED]. The witness also [REDACTED].<sup>35</sup> The Chamber notes that the witness [REDACTED].
22. **P-0984**, who is scheduled to testify *viva voce*, is a former [REDACTED]. The witness also [REDACTED]. The Prosecution [REDACTED].<sup>36</sup> The Chamber notes that the witness [REDACTED].
23. **P-0987**, who is scheduled to testify *viva voce*, is a former [REDACTED]. P-0987 [REDACTED].<sup>37</sup> The Chamber notes that the witness [REDACTED].
24. **P-0992**, who is scheduled to testify *viva voce*, is [REDACTED].<sup>38</sup> The Chamber notes that the witness [REDACTED].
25. **P-0994**, who is scheduled to testify *viva voce*, was [REDACTED]. P-0994 [REDACTED].<sup>39</sup> The Chamber notes that the witness [REDACTED].
26. **P-1021**, who is scheduled to testify *viva voce*, is a former [REDACTED]. P-1021 [REDACTED]. [REDACTED].<sup>40</sup> The Prosecution [REDACTED].<sup>41</sup> As noted in the VWU Observations, [REDACTED], the VWU supports the Request [REDACTED].<sup>42</sup>
27. **P-0131**, who is due to testify *viva voce*, is a former [REDACTED]. Although he [REDACTED].<sup>43</sup> The Prosecution [REDACTED].<sup>44</sup>
28. **P-0935**, for whom an application under Rule 68(3) is pending,<sup>45</sup> is a former [REDACTED]. P-0935 [REDACTED]. Thus, [REDACTED].<sup>46</sup>

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<sup>35</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>36</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>37</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>38</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>39</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>40</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>41</sup> Prosecution's submission of the List of Witnesses and the List of Evidence, 5 January 2022, ICC-02/05-01/20-551-Conf-Exp-Anx1.

<sup>42</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 9-10.

<sup>43</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr, pp. 1-2.

<sup>44</sup> Prosecution's submission of the List of Witnesses and the List of Evidence, 5 January 2022, ICC-02/05-01/20-551-Conf-Exp-Anx1.

<sup>45</sup> Prosecution's eighth application under rule 68(3) to introduce into evidence prior recorded testimony of five witnesses, 14 March 2022, ICC-02/05-01/20-627-Conf.

<sup>46</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.



29. In light of the above, the Chamber grants the Request in respect of insider witnesses **P-0117, P-0188, P-0874, P-0885, P-0931, P-0976, P-0984, P-0987, P-0992, P-0994** and **P-1021** particularly noting that their current positions and/or place of residence puts them in a particular risk. Nonetheless, the Chamber's decision is a preliminary one, to be confirmed once the VWU meets with the witnesses prior to their testimony.

30. In respect of **P-0131 and P-0935**, and particularly noting that [REDACTED], the Chamber defers its decision until the VWU can individually assess the witnesses' security situation.

#### **B. Crime base witnesses living in Sudan**

31. The second category of witnesses identified by the Prosecution are crime base witnesses, many of them living in Sudan [REDACTED] or with family still living in Sudan. The Prosecution submits in-court protective measures are necessary so they can testify freely and without fear, and also to avoid reaction from their communities or families as a result of their testimony.<sup>47</sup>

32. As noted in the VWU Observations, [REDACTED].<sup>48</sup>

33. **P-0008** is due to testify pursuant to Rule 68(3) of the Rules. The witness [REDACTED].<sup>49</sup> The Chamber notes that the witness [REDACTED].

34. **P-0020** is due to testify pursuant to Rule 68(3) of the Rules. The Prosecution submits [REDACTED].<sup>50</sup> The Chamber notes that the witness [REDACTED].

35. **P-0027** is due to testify pursuant to Rule 68(3) of the Rules. [REDACTED].<sup>51</sup> As noted in the VWU Observations, [REDACTED].<sup>52</sup>

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<sup>47</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 26-30.

<sup>48</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 15.

<sup>49</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>50</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>51</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>52</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 13.

36. **P-0085**, is due to testify *viva voce*.<sup>53</sup> The Chamber notes that the witness [REDACTED].
37. **P-0105**, who is due to testify via Rule 68(3) of the Rules, [REDACTED]. The Prosecution [REDACTED].<sup>54</sup> The Chamber notes that the witness [REDACTED].
38. **P-0114**, who is due to testify via Rule 68(3) of the Rules, [REDACTED]. P-0114 [REDACTED].<sup>55</sup> [REDACTED].
39. **P-0119**, who is due to testify via Rule 68(3) of the Rules. [REDACTED].<sup>56</sup> The Chamber notes that the witness [REDACTED].
40. **P-0581** is due to testify via Rule 68(3) of the Rules. The Prosecution submits that [REDACTED].<sup>57</sup> The Chamber notes that the witness [REDACTED].
41. **P-0877**, who is due to testify *viva voce*, [REDACTED].<sup>58</sup> The Chamber notes that the witness [REDACTED].
42. **P-0884**, who is due to testify *viva voce*, is a former [REDACTED].<sup>59</sup> The Chamber notes [REDACTED].
43. **P-0892**, for whom a request under Rule 68(3) of the Rules is pending,<sup>60</sup> [REDACTED].<sup>61</sup> The Chamber notes that the witness [REDACTED].
44. **P-0913**, a dual status individual [REDACTED]. P-0913 is [REDACTED].<sup>62</sup> The Chamber notes that the witness [REDACTED].

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<sup>53</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>54</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>55</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>56</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>57</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>58</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>59</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>60</sup> Prosecution's ninth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0041, P-0675, P-0720, P-0892 and P-0916, 15 March 2022, ICC-02/05-01/20-629-Conf

<sup>61</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>62</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

45. **P-0918**, for whom a request under Rule 68(3) of the Rules is pending,<sup>63</sup> [REDACTED].<sup>64</sup> The Chamber notes that the witness [REDACTED].
46. **P-0922**, who is due to testify via Rule 68(3) of the Rules, is a former [REDACTED].<sup>65</sup>
47. **P-0932** is due to testify *viva voce*.<sup>66</sup> The Chamber notes that the witness [REDACTED].
48. **P-0955**, who is due to testify via Rule 68(3) of the Rules, [REDACTED]. His family [REDACTED].<sup>67</sup>
49. **P-0973**, a dual status individual who is due to testify *viva voce*, [REDACTED].<sup>68</sup>
50. **P-0980**, who is due to testify via Rule 68(3) of the Rules, [REDACTED]. P-0980 [REDACTED].<sup>69</sup>
51. **P-0986**, a dual status individual [REDACTED]. P-0986 [REDACTED] which poses additional risks. The Prosecution also submits [REDACTED].<sup>70</sup> The CLRV fully support the Prosecution's assessment and suggestion [REDACTED].<sup>71</sup>
52. **P-0990**, who is due to testify *viva voce*, [REDACTED] with [REDACTED]. P-0990 [REDACTED]. P-0990 [REDACTED]. P-0990 resides in [REDACTED], which poses additional risks.<sup>72</sup>
53. **P-1018**, a dual status individual who is due to testify *viva voce*, [REDACTED]. [REDACTED]. P-1018 [REDACTED] which poses additional risks.<sup>73</sup> In light of P-1018's [REDACTED], the protective measures sought are necessary.

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<sup>63</sup> Prosecution's seventh application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0015 and P-0918, 3 March 2022, ICC-02/05-01/20-614-Conf.

<sup>64</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>65</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>66</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>67</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>68</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>69</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>70</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>71</sup> CLRV Observations, ICC-02/05-01/20-631-Conf, para. 7.

<sup>72</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>73</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

54. **P-0584**, a dual status individual who is due to testify *viva voce*, who [REDACTED].<sup>74</sup> [REDACTED].<sup>75</sup>

55. The Chamber notes that although there appears to be no specific or updated information about several of the aforesaid witnesses, the protective measures sought appear to be necessary in light of their current place of residence, [REDACTED], which in itself poses a particular risk.

56. Accordingly, the Chamber grants the Request in respect of crime-base witnesses **P-0008, P-0020, P-0027, P-0085, P-0105, P-0114, P-0119, P-0581, P-0877, P-0884, P-0892, P-0913, P-0918, P-0922, P-0932, P-0955, P-0973, P-0980, P-0986, P-0990 and P-1018**. Nonetheless, the Chamber's decision is a preliminary one, to be confirmed once the VWU meets with the witness prior to testimony.

57. In respect of **P-0584**, [REDACTED] the Chamber defers its decision until the VWU can individually assess the witness's security situation.

### **C. Witnesses in the Court's protection programme (the 'ICCPP')**

58. In a third category, the Prosecution seeks protective measures for witnesses admitted in the ICCPP because of risks to their personal safety, as objectively assessed by the VWU. The Prosecution submits that in-court protective measures are necessary so the witnesses can testify without fear but also without compromising the protection afforded under the ICCPP.<sup>76</sup>

59. The Prosecutions submits that protective measures are warranted for [REDACTED] since they have been admitted in the ICCPP.<sup>77</sup> The Prosecution additionally foresees the need for special measures for [REDACTED].

60. The Chamber notes the VWU Observations [REDACTED].<sup>78</sup> [REDACTED].<sup>79</sup> [REDACTED].<sup>80</sup>

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<sup>74</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>75</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 14.

<sup>76</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 31-32.

<sup>77</sup> Request, ICC-02/05-01/20-609-Conf-Exp-AnxA-Corr.

<sup>78</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 5-7. [REDACTED].

<sup>79</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 7. [REDACTED].

<sup>80</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, para. 8.

61. Accordingly, the Chamber grants the Request for in-court protective measures in respect of [REDACTED].

**D. Prosecution investigators**

62. The Prosecution requests in-court protective measures for two investigators (**P-1048** and **P-1049**), [REDACTED].<sup>81</sup> The VWU notes [REDACTED].<sup>82</sup>

63. Accordingly, the Chamber defers its decision in respect of **P-1048** and **1049** until the VWU can individually assess the witness's security situation.

**E. Special measures**

64. The Prosecution foresees special measures in the form of psychological support before, during and after the testimony for witnesses of alleged crimes of sexual violence, witnesses of alleged crimes against family members, and witnesses with special medical needs. The Prosecution notes that the VWU is best positioned to determine the need for special measures, and thus limits itself to identifying the individuals it believes may need such assistance and support.<sup>83</sup> As noted above, these are witnesses [REDACTED].

65. As noted above, the VWU will provide appropriate support once it concludes the vulnerability assessment prior to the witnesses' testimonies.<sup>84</sup>

66. Accordingly, the Chamber instructs the VWU to assess the need for special measures and seize the Chamber of any request for special measures when it meets with the witnesses prior to their testimony.

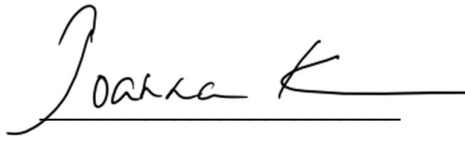
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<sup>81</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 33-34 and AnxA-Corr.

<sup>82</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 16-17.

<sup>83</sup> Request, ICC-02/05-01/20-609-Conf-Exp, paras 13-14.

<sup>84</sup> VWU Observations, ICC-02/05-01/20-632-Conf-Exp, paras 18-19.

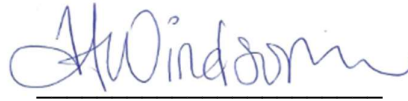


**Judge Joanna Korner**

**Presiding Judge**



**Judge Reine Alapini-Gansou**



**Judge Althea Violet Alexis-Windsor**

Dated this 25 March 2022

At The Hague, The Netherlands