

ANNEX 32
PUBLIC

From: Trial Chamber V Communications
Sent: 31 May 2021 12:22
To: [REDACTED] Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; [REDACTED]; [REDACTED]; V44 LRV Team OPCV; V44 LRV Team OPCV; V45 LRV Team
Cc: [REDACTED]; Associate Legal Officer-Court Officer; [REDACTED] Chamber Decisions Communication; Trial Chamber V Communications
Subject: RE: In-court protection measures for witness CAR-OTP-P-2027
Follow Up Flag: Follow up
Flag Status: Flagged
Categories: Yekatom and Ngaissona

Dear Counsel,

The Single Judge takes note of the below report by the VWU regarding in-court protective measures for P-2027 (the 'VWU Report').

The Single Judge recalls his previous directions regarding the ruling on applications for in-court protective measures and possible reconsideration thereof (*see* email from the Chamber, 22 March 2021, at 15:08 *referring to* Initial Directions, ICC-01/14-01/18-631, para. 69; Decision on the Prosecution Requests for In-Court Protective Measures for 73 Trial Witnesses, ICC-01/14-01/18-906-Conf-Red (the 'Decision'), paras 1, 21).

The Single Judge recalls that he previously rejected the in-court protective measures requested by the Prosecution for P-2027 (*see* Decision, ICC-01/14-01/18-906-Red2, para. 42, p. 42).

However, in light of the new and additional information provided in the VWU Report, the Single Judge considers that the existence of an objectively justifiable risk to the witness's legitimate interests protected under Article 68 of the Rome Statute has been established. Accordingly, and noting the VWU's conclusion that 'the application of in-court protection measures may prevent a future escalation of risk' to the witness and his family, the Single Judge considers it appropriate to grant the below recommended measures.

Kind regards, TC V

From: [REDACTED]
Sent: 28 May 2021 15:40
To: Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; [REDACTED]; V44 LRV Team OPCV; V44 LRV Team OPCV; V45 LRV Team
Cc: [REDACTED]; Associate Legal Officer-Court Officer; [REDACTED]
Subject: In-court protection measures for witness CAR-OTP-P-2027

Dear colleagues,
Dear counsels,

Please find below the in-court protection measures report in relation to CAR-OTP-P-2027:

Witness' Background

The witness is [REDACTED]
[REDACTED]

Witness' Concerns

On 23 April 2021, the VWU interviewed the witness to assess the necessity of in-court protection measures. The process was explained; the witness understood the protection measures and requested their application during his testimony.

The witness indicated that the risk regarding his security would increase dramatically if his identity is exposed during testimony. He explained that [REDACTED]. The witness was particularly concerned for the security of his family as they currently [REDACTED]. Furthermore, he firmly believes that disclosing his identity would lead to excommunication from his family, colleagues, and community, and that he will be marked as a traitor and enemy.

The witness asked for the understanding of the current situation in CAR. The fact that if he was not in danger so far, does not mean that his security situation will not become critical once he begins testifying without protective measures. He concluded that protection measures are necessary to ensure that he is not subject to severe, possibly physical, retaliation from his testimony.

Protection Analysis

The witness is [REDACTED] that now occupies [REDACTED]. The VWU considers that he has a very good understanding of the security environment throughout CAR.

The VWU understands that the witness will provide key and unique evidence for the leadership case against one of the Accused. Due to his work, he is [REDACTED] and his [REDACTED], he is known to the potential threat actors.

The VWU cannot rule out the possibility of a risk transfer to the witness' family as a part of possible retaliation. His family [REDACTED] he is unable to provide any security support and therefore his family remain completely vulnerable. Additionally, his family is not aware of his cooperation with the ICC. Should he testify publicly as a Prosecution witness, the members of his family, friends and community will see this as a betrayal and will likely isolate him.

The VWU considered the above in the context of the prevailing security situation in CAR and, in particular, the frequency with which violence occurs and assessed that limiting public disclosure of his testimony would substantially assist in managing the threat and subsequent risk to the witness and his family.

Recommendations

The VWU takes note of the decision issued by Trial Chamber V on 9 March 2021 (ICC-01/14-01/18-906-Conf-Exp and ICC-01/14-01/18-906-Conf-Red) rejecting the Office of the Prosecutor's request for in-court protective measures for witness CAR-OTP-2027.

Nevertheless, in light of the information obtained through the interview, the VWU considers that the application of in-court protection measures may prevent a future escalation of risk. Based on this, the VWU recommends the following in-court protection measures:

- Use of pseudonym;
- Image distortion;
- Voice distortion,
- Closed/Private Session;
- Redaction of identifying information that may be disseminated to the public.

Kind regards,

