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No. ICC-01/12-01/18

Date: 14 April 2021

TRIAL CHAMBER X

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Kimberly Prost

SITUATION IN THE REPUBLIC OF MALI

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

Public redacted version of the

Eighth Decision on in-court protective measures for witnesses

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

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TRIAL CHAMBER X of the International Criminal Court, in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, having regard to Articles 64(2), 64(6)(e) and (f), 64(7), 64(8)(b), 67(1) and 68(1) and (2) of the Rome Statute, Rule 87 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 20 of the Regulations of the Court (the ‘Regulations’), issues the following ‘Eighth Decision on in-court protective measures for witnesses’.

I. Procedural history

1. On 6 May 2020, the Chamber issued its ‘Directions on the conduct of proceedings’, instructing the Office of the Prosecutor (the ‘Prosecution’) to ‘file a motivated application seeking relevant in-court protective measures pursuant to Rule 87 of the Rules for all witnesses for whom it is reasonably foreseeable that protective measures are required no later than 40 days before the start of the presentation of evidence’.¹
2. On 27 July 2020, the Prosecution filed an application pursuant to Rule 87 (the ‘First Application’), seeking in-court protective measures for the witnesses it had originally scheduled to testify first in the trial.²
3. On 17 August 2020, the Legal Representative of Victims (the ‘LRVs’) submitted their response, indicating that they do not object to the First Application.³
4. On the same day, the Defence filed a response to the First Application. The Defence indicates it does not adopt a specific position on the protective measures requested, but submits that proceedings should remain open and transparent,

¹ Directions on the conduct of proceedings, ICC-01/12-01/18-789-AnxA, paras 74-76. The deadline was subsequently extended on 22 July 2020. *See also* Decision on the Prosecution’s witness order and variation of time limit for filing applications for in-court protective measures, 22 July 2020, ICC-01/12-01/18-968, para. 31.

² Requête de l’Accusation sur le fondement de la règle 87 aux fins de mesures de protection pour des témoins du Bloc 1, 27 July 2020, ICC-01/12-01/18-976-Conf-Exp, Confidential *ex parte* available to VWU and the OTP. A confidential redacted version was filed on 28 July 2020.

³ Email from the LRVs to TCX Communications, 17 August 2020 at 12:09.

which warrants the use of closed sessions and/or the anonymity of witnesses only where necessary and proportionate.⁴

5. On the same day, the Victims and Witnesses Unit (the ‘VWU’) filed its observations (the ‘VWU First Observations’).⁵ The VWU indicates that these are ‘general observations’ as it did not have the opportunity to make an assessment of all the witnesses who are subject to the First Application. The VWU confirms that it will meet all witnesses prior to their testimony and will then provide the Chamber with a more detailed assessment on in-court protective measures.⁶
6. On 31 August 2020, the Prosecution filed a second application seeking in-court protective measures for further Prosecution witnesses (the ‘Second Application’).⁷
7. On 1 September 2020, the Prosecution filed a third application seeking in-court protective measures for a third group of Prosecution witnesses (the ‘Third Application’).⁸
8. On 10 September 2020, the Prosecution filed an application seeking in-court protective measures for witness P-0660 (the ‘Application for Witness P-0660’).⁹

⁴ Email from the Defence to TCX Communications, 17 August 2020 at 13:07.

⁵ ‘Victims and Witnesses Unit’s Observations on the « Requête de l’Accusation sur le fondement de la règle 87 aux fins de mesures de protection pour des témoins du Bloc 1 »’, 17 August 2020, ICC-01/12-01/18-998-Conf-Exp, Confidential *ex parte* available to the the Registry and the OTP. A confidential redacted version was filed on that same date.

⁶ First VWU Observations, ICC-01/12-01/18-998-Conf-Red, para. 9.

⁷ Deuxième requête de l’Accusation sur le fondement de la règle 87 aux fins de mesures de protection des témoins du Bloc 2 et du Bloc 3, 31 August 2020, ICC-01/12-01/18-1020-Conf-Exp (confidential *ex parte*, available only to VWU and the Prosecution; a confidential redacted version was filed on 4 September 2020, ICC-01/12-01/18-1020-Conf-Red).

⁸ Prosecution’s third application for in-court protective measures for Block 2 and Block 3 witnesses and request for additional time to contact Witness MLI-OTP- P-0660, ICC-01/12-01/18-1022-Conf-Exp (a confidential redacted version was filed on 4 September 2020, ICC-01/12-01/18-1022-Conf-Red, and a public redacted version was filed on 2 October 2020, ICC-01/12-01/18-1022-Red2).

⁹ Prosecution’s application for in-court protective measures for MLI-OTP-P-0660, 10 September 2020, ICC-01/12-01/18-1044-Conf-Exp.

9. On 11 and 14 September 2020, the LRVs' submitted their response to the Second and Third Applications, stating they do not object to the protective measures requested.¹⁰
10. On 18 September 2020, the VWU filed its observations on the Second and Third Applications (the 'VWU Second Observations').¹¹
11. The Defence does not object to the Second and Third Applications.

II. Submissions and analysis

12. This is the Chamber's eighth decision on in-court protective measures and it determines all pending applications for protective measures sought by the Prosecution.¹²
13. The Chamber recalls its findings in previous decisions that have dealt with in-court protective measures in the course of the trial.¹³

¹⁰ Email from the LRVs to TC X Communications, 11 September 2020, at 14:31; Email from the LRVs to TC X Communications, 14 September 2020, at 17:08.

¹¹ Victims and Witnesses Unit's Observations on the "Deuxième requête de l'Accusation sur le fondement de la règle 87 aux fins de mesures de protection des témoins du Bloc 2 et du Bloc 3", on the "Prosecution's third application for in court protective measures for Block 2 and Block 3 witnesses and request for additional time to contact Witness MLI-OTP- P-0660" and on the "Prosecution's application for in-court protective measures for MLI-OTP-P-0660", 18 September 2020, ICC-01/12-01/18-1052-Conf-Exp (confidential *ex parte*, available only to the Registry and the Prosecution; a confidential redacted version was filed on the same date, ICC-01/12-01/18-1052-Conf-Red).

¹² The Chamber notes that in respect of P-0570, although the Prosecution had requested in-court protective measures, it recently submitted an application to introduce her testimony pursuant to Rule 68(2)(c) of the Rules. The Prosecution states that [REDACTED] the witness is no longer available to testify. Accordingly, no ruling is required for in-court protective measures, as these are rendered moot by the recent Rules 68(2)(c) application. *See* Prosecution application under rule 68(2)(c) to introduce into evidence the prior recorded testimony and associated material of Prosecution Witness MLI-OTP-P-0570, 1 April 2020, ICC-01/12-01/18-1408-Conf (with confidential Annex A).

¹³ Seventh decision on in-court protective measures, 8 March 2021, ICC-01/12-01/18-1344-Conf-Exp (a confidential redacted version, ICC-01/12-01/18-1344-Conf-Red, and a public redacted version, ICC-01/12-01/18-1344-Red2, were filed on that same date); Sixth decision on in-court protective measures, 24 February 2021, ICC-01/12-01/18-1318-Conf-Exp (a confidential redacted version, ICC-01/12-01/18-1318-Conf-Red, and a public redacted version, ICC-01/12-01/18-1318-Red2, were filed on that same date); Fifth decision on in-court protective measures, 3 February 2021, ICC-01/12-01/18-1280-Conf-Exp (a confidential redacted version, ICC-01/12-01/18-1280-Conf-Red, and a public redacted version, ICC-01/12-01/18-1280-Red2, were filed on that same date); Corrigendum Fourth decision on in-court protective measures for witnesses, 26 January 2021, ICC-01/12-01/18-1266-Conf-Exp-Corr (a confidential redacted version, ICC-01/12-01/18-1266-Conf-Red-Corr, and a public redacted version, ICC-01/12-01/18-1266-Red2-Corr, were filed on that same date); Third decision on in-court protective measures, 19 October 2020, ICC-01/12-01/18-1113-Conf-Exp (a confidential redacted version was filed that same date, ICC-01/12-01/18-1113-Conf-Red and a public redacted version was filed on 5 January

P-0004

14. The Prosecution requests in-court protective measures for P-0004, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁴ It submits that P-0004 faces objective risks for the mere fact of being a Prosecution witness, as well as given his personal circumstances,¹⁵ and [REDACTED].¹⁶
15. In particular, the Prosecution states that P-0004 is an important witness who was present in Timbuktu during the 2012-2013 events.¹⁷ [REDACTED].¹⁸ [REDACTED].¹⁹
16. The Prosecution indicates that P-0004 [REDACTED].²⁰ [REDACTED].²¹ The Prosecution states that if his collaboration with the Court were to be known by armed terrorist groups, P-0004 would face an objective risk.²² The Prosecution submits the protective measures sought are also necessary to protect P-0004's family.²³
17. The Chamber notes that the Defence does not oppose the protective measures in question. It also notes that the VWU has met with P-0004, and that although it [REDACTED].²⁴ The VWU thus agrees with the proposed measures that in its view assist in preventing threat actors from becoming aware of P-0004's cooperation with the Court.²⁵

2021, ICC-01/12-01/18-1113-Red2) ('Third decision on in-court protective measures'); Second decision on in-court protective measures, 24 September 2020, ICC-01/12-01/18-1067-Conf-Exp (a confidential redacted version was filed on that same date, ICC-01/12-01/18-1067-Conf-Red, and a public redacted version was filed on 5 January 2021, ICC-01/12-01/18-1067-Red2) ('Second decision on in-court protective measures'); First decision on in-court protective measures, 31 August 2020, ICC-01/12-01/18-1019-Conf-Exp (a confidential redacted version was filed on that same date, ICC-01/12-01/18-1019-Conf-Red, and a public redacted version was filed on 5 January 2021, ICC-01/12-01/18-1019-Red2) ('First decision on in-court protective measures').

¹⁴ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 32.

¹⁵ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 25.

¹⁶ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 25, [REDACTED].

¹⁷ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 27.

¹⁸ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 28.

¹⁹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 28.

²⁰ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 30.

²¹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 30.

²² First Application, ICC-01/12-01/18-976-Conf-Exp, para. 31.

²³ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 32.

²⁴ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 16.

²⁵ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 16.

18. The Chamber is satisfied that an objectively justifiable risk for P-0004 has been demonstrated and that the protective measures sought are necessary to protect the witness and his family. Although the witness [REDACTED]. In particular, the Chamber notes that the witness [REDACTED],²⁶ the Chamber considers that P-0004 and his family would face a significant and impermissible risk to his safety should his identity, and consequently his cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0004 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0136

19. The Prosecution requests in-court protective measures for P-0136, in the form of face and voice distortion, and use of private/closed sessions.²⁷ The witness is a [REDACTED] journalist that [REDACTED],²⁸ and who was in Timbuktu during the temporal scope of the charges.²⁹ He will mainly testify on life conditions during occupation and the activities of the armed groups.³⁰
20. Although the Prosecution was not able to contact this witness before the First Application, it submits that protective measures are warranted to safeguard P-0136's security and work.³¹ In particular, the Prosecution indicates that P-0136 [REDACTED],³² and that a greater publicity during the proceedings could have a negative impact on his safety, as well as a deterring effect on sources that daily contribute to his work,³³ exposing him [REDACTED].³⁴
21. The Chamber notes that the Defence does not oppose the protective measures in question. It also notes that although the VWU has not met with P-0136 yet,³⁵ given the nature of his employment and [REDACTED], it is supportive of the

²⁶ [REDACTED].

²⁷ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 47.

²⁸ First Application, ICC-01/12-01/18-976-Conf-Exp, paras 44-45.

²⁹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 45.

³⁰ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 45.

³¹ First Application, ICC-01/12-01/18-976-Conf-Exp, paras 44,46.

³² First Application, ICC-01/12-01/18-976-Conf-Exp, para. 47.

³³ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 46.

³⁴ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 47.

³⁵ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 20.

proposed measures.³⁶ The VWU however states that further consideration may be required on the need to augment the measures proposed to include the use of a pseudonym.³⁷

22. The Chamber notes that P-0136 [REDACTED],³⁸ but [REDACTED],³⁹ where it is reported that Islamist groups are still operating.⁴⁰ Although disclosing the identity of the witness could constitute a threat to his safety and a restriction to the exercise of his present and future professional activity,⁴¹ the Chamber points out the fact that the Prosecution has still not been able to contact P-0136 and that the VWU may require further information on the need of a pseudonym. Consequently, the Chamber defers its decision on the in-court protective measures until the VWU meets with the witness and submit a security assessment to the Chamber.

P-0150

23. The Prosecution requests in-court protective measures for P-0150, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.⁴² It indicates that P-0150 is an insider witness [REDACTED] during the period of the events that took place between April 2012 and January 2013.⁴³ P-0150 [REDACTED],⁴⁴ [REDACTED].⁴⁵ Although the Prosecution states [REDACTED],⁴⁶ it argues that his status as a witness in this case should remain confidential to protect both him and his family. [REDACTED].⁴⁷

³⁶ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 20.

³⁷ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 20.

³⁸ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 44.

³⁹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 47.

⁴⁰ See Annex A to the Requête de l'Accusation sur le fondement de la règle 87 aux fins de mesures de protection pour des témoins du Bloc 1, 27 July 2020, ICC-01/12-01/18-976-Conf-AnxA; see also VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, paras 4-8.

⁴¹ In relation to the protection of sources for his work as a journalist, see VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 6.

⁴² First Application, ICC-01/12-01/18-976-Conf-Exp, para. 43.

⁴³ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 39.

⁴⁴ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 40.

⁴⁵ [REDACTED].

⁴⁶ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 40.

⁴⁷ First Application, ICC-01/12-01/18-976-Conf-Exp, paras 40, 42.

24. In this regard, the Prosecution points out that given the fact that [REDACTED].⁴⁸ Moreover, it submits that [REDACTED].⁴⁹
25. The Prosecution notes [REDACTED].⁵⁰ It thus submits that it is indispensable to maintain an optimum confidentiality, also reminding that the witness [REDACTED].⁵¹
26. The Chamber notes that the Defence does not oppose the protective measures in question. It also notes that the VWU referred to the [REDACTED].⁵² The VWU also mentions that [REDACTED].⁵³ The VWU remarks that [REDACTED].⁵⁴ [REDACTED]. The VWU further states that the [REDACTED].⁵⁵
27. The Chamber notes that P-0150's [REDACTED]. While the Chamber acknowledges that there are objectively justifiable risks to P-0150's safety, [REDACTED]. [REDACTED] if it became known that he was a witness in this case. Accordingly, mindful of the fair trial-related concerns which generally militate against shielding the identity of witnesses from the public, and having had particular regard to the length and scope of P-0150's expected testimony, the Chamber is of the view that the requested protective measures are not necessary and also that they would be disproportionate to the rights of the accused.
28. Accordingly, the Chamber rejects P-0150 in-court protective measures request. The Chamber notes that this determination is without prejudice to the right of the witness to bring his own application for protective measures. The Chamber further notes this determination is without prejudice of any eventual request for assurances pursuant to Rule 74 of the Rules.

⁴⁸ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 41.

⁴⁹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 41.

⁵⁰ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 42.

⁵¹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 42.

⁵² VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 18.

⁵³ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 18.

⁵⁴ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 18.

⁵⁵ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 19.

P-0643

29. The Prosecution requests in-court protective measures for P-0643, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.⁵⁶ It submits that P-0643 faces objective risks for the mere fact of being a Prosecution witness, as well as given his personal circumstances,⁵⁷ and in light of the security situation [REDACTED].⁵⁸
30. In particular, the Prosecution indicates that the witness is a law professor [REDACTED]. He [REDACTED], [REDACTED].⁵⁹ He thus [REDACTED].⁶⁰ [REDACTED] the Prosecution considers that P-0643, as well as his family, face an objective risk should his collaboration with the ICC were to be known to armed groups.⁶¹ In this regard, the Prosecution states that the Court is perceived as an enemy by JNIM and that there is a high terrorist threat [REDACTED], but also with regards to witnesses [REDACTED].⁶²
31. The Chamber notes that the Defence does not oppose the protective measures in question. The Chamber also notes that the VWU has not yet discussed P-0643's security situation in person.⁶³ [REDACTED].⁶⁴ The VWU thus agrees with the proposed measures that assist in preventing threat actors from becoming aware of a witness's cooperation with the Court.⁶⁵
32. The Chamber is satisfied that an objectively justifiable risk for P-0643 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED].⁶⁶ In addition, the Chamber takes into account the fact that P-0643 [REDACTED] an area that is also of high risk.⁶⁷ [REDACTED],⁶⁸ the Chamber considers that P-0643 would face a significant and impermissible risk to his safety should his

⁵⁶ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 32.

⁵⁷ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 25.

⁵⁸ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 25, [REDACTED].

⁵⁹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 26.

⁶⁰ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 26.

⁶¹ First Application, ICC-01/12-01/18-976-Conf-Exp, para. 26.

⁶² First Application, ICC-01/12-01/18-976-Conf-Exp, para. 26.

⁶³ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 16.

⁶⁴ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 16.

⁶⁵ VWU First Observations, ICC-01/12-01/18-998-Conf-Exp, para. 16.

⁶⁶ [REDACTED].

⁶⁷ [REDACTED].

⁶⁸ [REDACTED].

identity, and consequently his cooperation with the Court, become known to the public. However, the Chamber does not consider that there is a justification to use voice distortion for this witness. Accordingly, the Chamber grants P-0643 in-court protective measures in the form of the use of a pseudonym and face distortion, as well as use of private sessions and/or closed sessions.

P-0610 and P-0622

33. The Prosecution requests in-court protective measures for P-0610, a crime-base witness, and [REDACTED] P-0622, a fact/overview witness, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.⁶⁹ The Prosecution states that P-0610 was subject to sexual violence in Timbuktu during the relevant time-frame,⁷⁰ and [REDACTED] [REDACTED].⁷¹ The Prosecution notes that although both witnesses [REDACTED]⁷² [REDACTED].⁷³ The Prosecution therefore submits that because of their personal circumstances these witnesses face an objective risk to their security.⁷⁴
34. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU conducted an assessment [REDACTED].⁷⁵ The VWU observes that [REDACTED].⁷⁶ It therefore considers that any public identification of the witnesses during their testimony would increase levels of risk, [REDACTED].⁷⁷ The VWU therefore supports the measures requested by the Prosecution.⁷⁸
35. The Chamber is satisfied that an objectively justifiable risk for P-0610 and P-0622 has been demonstrated. In particular, the Chamber notes that the witnesses [REDACTED],⁷⁹ [REDACTED].⁸⁰ In light of this, the Chamber considers that P-

⁶⁹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 32, 36.

⁷⁰ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 36.

⁷¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 33.

⁷² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 33.

⁷³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 33.

⁷⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 33.

⁷⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 12.

⁷⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 12.

⁷⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 12.

⁷⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 12.

⁷⁹ [REDACTED].

⁸⁰ [REDACTED].

0610 and P-0622 would face a significant and impermissible risk to their safety should their identity, and consequently their cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0610 and P-0622 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0520

36. The Prosecution requests in-court protective measures for P-0520, a crime-base witness,⁸¹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.⁸²
37. The Prosecution states that P-0520 suffered sexual violence in Timbuktu during the relevant time-frame, and that she is therefore a vulnerable witness.⁸³ In addition, she has already been rejected and stigmatised by certain members of her family and of her community because of the alleged crimes she suffered.⁸⁴ The Prosecution indicates that although [REDACTED] protective measures are still warranted to safeguard her psychological well-being, for fear of rejection and stigmatisation, should her testimony be made known to her husband and community.⁸⁵
38. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU conducted an assessment with P-0520.⁸⁶ [REDACTED].⁸⁷ The VWU considers that any public identification of this witness will increase her level of risk and is therefore supportive of the protective measures sought.⁸⁸
39. The Chamber observes that no objective risk to P-0520's safety or security has been identified by the Prosecution [REDACTED]. The Chamber further notes

⁸¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 35.

⁸² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 36.

⁸³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 35.

⁸⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 35.

⁸⁵ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 35.

⁸⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 12.

⁸⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 13.

⁸⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 13.

that, while the VWU supports the protective measures sought, it has not provided more detailed reasons as to how her level of risk could be increased in the event that her testimony be made known to the public.

40. However, the Chamber notes the special status of victims of crimes of sexual or gender-based violence under Article 68(1) and (2) of the Statute, who benefit from special and increased protection in proceedings before the Court,⁸⁹ and that protective measures also aim to safeguard witnesses' psychological well-being, as well as their dignity and privacy.⁹⁰ Accordingly, the Chamber is of the view that P-0520 would face a significant and impermissible risk to her well-being and privacy should her identity, and consequently her cooperation with the Court, become known to the public. In particular, the Chamber notes that P-0520 could be at risk of further ostracism and rejection, including from her husband, should the acts allegedly committed against her become public. Accordingly, the Chamber grants P-0520 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0538

41. The Prosecution requests in-court protective measures for P-0538, a crime-base witness allegedly a victim of sexual and gender-based violence, [REDACTED]⁹¹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.⁹² The Prosecution notes that given her personal circumstances, particularly that she [REDACTED] and vulnerable, P-0538 [REDACTED] as she faces objective risks.⁹³

⁸⁹ Decision on the Prosecution motion for authorisation to withhold information identifying Witnesses MLI-OTP-P-0636, MLI-OTP-P-0638, MLI-OTP-P-0639 and MLI-OTP-P-0641 from their statements, 30 December 2019, ICC-01/12-01/18-545-Red2, para. 10; Decision on Prosecution request relating to protective measures for P-0543, 22 April 2020, ICC-01/12-01/18-765-Red2, para. 24.

⁹⁰ The Chamber also highlights that, in Article 68(2) of the Statute, the implementation of measures in such cases shall have regard 'to all the circumstances, particularly the views of the victim or witness'.

⁹¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23, 29.

⁹² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 31.

⁹³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23-24, 29. The Prosecution also refers to Pre-Trial Chamber I, *Décision relative aux requêtes du Procureur aux fins d'autorisation de la non-communication de l'identité des témoins* MLI-OTP-P-0520, MLI-OTP-P-0595, MLI-OTP-P-0538, MLI-OTP-P-0542 et MLI-OTP-P-0603, 1 May 2019, ICC-01/12-01/18-322-Conf-Exp ('PTC I Decision on

42. The Chamber notes that the Defence does not object to the Second Application. It also notes that the [REDACTED].⁹⁴ [REDACTED].⁹⁵ The VWU considers that the level of risk to this witness has not subsided and supports any measures that would assist in preserving her anonymity vis-à-vis potential threat actors.⁹⁶
43. The Chamber is satisfied that an objectively justifiable risk for P-0538 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED] and that her security situation, which has already been assessed on prior occasions,⁹⁷ continues to be of concern. [REDACTED],⁹⁸ the Chamber considers that P-0538 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0538 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0542

44. The Prosecution requests in-court protective measures for P-0542, a crime-base witness allegedly a victim of sexual and gender-based violence, [REDACTED],⁹⁹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁰⁰ The Prosecution considers that given her personal circumstances, P-0542 [REDACTED] as she faces objective risks.¹⁰¹ The Prosecution notes she is particularly vulnerable [REDACTED].¹⁰² P-0542 fears for her security

Confidentiality of Witnesses Identities'), para. 70. The Prosecution also refers to the Decision on the Prosecution request for delayed disclosure of the identities of Witnesses P-0538, P-0542, P-0553, P-0570, P-0574, and P-0603, 15 April 2020, ICC-01/12-01/18-741-Conf-Exp ('Decision on Delayed Disclosure of Witnesses Identities'), para. 42.

⁹⁴ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

⁹⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

⁹⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

⁹⁷ See Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 29, referring to ICC-01/12-01/18-251-Secret-Exp, and to Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp.

⁹⁸ [REDACTED].

⁹⁹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23, 27.

¹⁰⁰ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 31.

¹⁰¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23-24, 27.

¹⁰² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 27.

[REDACTED].¹⁰³ She also faces a risk of being stigmatised by her community, should the crimes she was subject to be known to them.¹⁰⁴

45. The Chamber notes that the Defence does not object to the Second Application. It [REDACTED],¹⁰⁵ [REDACTED].¹⁰⁶ The VWU considers that the level of risk to this witness has not subsided and supports any measures that would assist in preserving her anonymity to potential threat actors.¹⁰⁷
46. The Chamber is satisfied that an objectively justifiable risk for P-0542 has been demonstrated. The Chamber first notes that the witness [REDACTED].¹⁰⁸ The Chamber further notes, in particular, P-0542's specific profile and vulnerability, which has been discussed by this Chamber in the context of its decisions delaying the disclosure of her identity to the Defence.¹⁰⁹ Accordingly, the Chamber grants P-0542 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0547

47. The Prosecution requests in-court protective measures for P-0547, a crime-base witness allegedly a victim of sexual and gender-based violence,¹¹⁰ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹¹¹ The Prosecution notes that given her profile and serious risks that she faces, [REDACTED].¹¹² The Prosecution considers that in-court protective measures are necessary, since allowing her to publicly testify would nullify [REDACTED]

¹⁰³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 27.

¹⁰⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 27.

¹⁰⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁰⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁰⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁰⁸ [REDACTED].

¹⁰⁹ See Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp; and Second Decision on the Prosecution request for delayed disclosure of the identities of Witnesses P-0542, P-0570, and P-0603, 8 May 2020, ICC-01/12-01/18-794-Conf-Exp, paras 12-15..

¹¹⁰ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 18.

¹¹¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

¹¹² Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 13, 18.

to ensure her security and would put her at risk of reprisals by the armed groups.¹¹³

48. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU, [REDACTED],¹¹⁴ [REDACTED].¹¹⁵ The VWU indicates that [REDACTED].¹¹⁶ For these reasons, the VWU supports the protective measures sought.¹¹⁷
49. In light of the above, the Chamber considers that ensuring the confidentiality of P-0547's testimony is necessary to preserve her security. As such, the Chamber considers that P-0547 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0547 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0553

50. The Prosecution requests in-court protective measures for P-0553, a crime-base witness allegedly a victim of sexual and gender-based violence [REDACTED],¹¹⁸ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹¹⁹ The Prosecution considers that given her personal circumstances, she faces objective risks,¹²⁰ and was therefore [REDACTED].¹²¹ The Prosecution further notes that witness is [REDACTED].¹²² [REDACTED].¹²³

¹¹³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

¹¹⁴ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 7.

¹¹⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 7.

¹¹⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹¹⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹¹⁸ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23, 30.

¹¹⁹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 31.

¹²⁰ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 24, 30. The Prosecution refers to Pre-Trial Chamber I, *Décision relative à la requête du Procureur aux fins d'autorisation de la non-communication de l'identité des témoins P-0553 et P-0574*, 16 November 2018, ICC-01/12-01/18-184-Conf-Exp ('PTC I Decision on Witnesses P-0553 and P-0574'), para. 32.

¹²¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 23.

¹²² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30.

¹²³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30.

51. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU met with the witness,¹²⁴ [REDACTED].¹²⁵ [REDACTED].¹²⁶ [REDACTED].¹²⁷ [REDACTED] the VWU fully supports the measures sought.¹²⁸
52. The Chamber is satisfied that an objectively justifiable risk for P-0553 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED] and that her security situation, which has already been assessed on prior occasions,¹²⁹ continues to be of concern. Having regard to [REDACTED],¹³⁰ the Chamber considers that P-0553 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0553 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0574

53. The Prosecution requests in-court protective measures for P-0574, a crime-base witness of sexual and gender-based violence [REDACTED],¹³¹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹³² The Prosecution notes [REDACTED].¹³³ In addition, the Prosecution states that P-0574 is [REDACTED].¹³⁴ [REDACTED].¹³⁵

¹²⁴ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹²⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹²⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹²⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹²⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹²⁹ See Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30, referring to PTC I Decision on Witnesses P-0553 and P-0574, ICC-01/12-01/18-184-Conf-Exp; *see also* Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp.

¹³⁰ [REDACTED].

¹³¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23, 30

¹³² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 31.

¹³³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 23.

¹³⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30.

¹³⁵ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30.

54. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU met with the witness,¹³⁶ [REDACTED].¹³⁷ [REDACTED].¹³⁸ [REDACTED].¹³⁹ [REDACTED] the VWU fully supports the measures sought.¹⁴⁰
55. The Chamber is satisfied that an objectively justifiable risk for P-0574 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED] and that her security situation, which has already been assessed on prior occasions,¹⁴¹ continues to be of concern. Having regard to the current security situation in [REDACTED],¹⁴² the Chamber considers that P-0574 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0574 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0580 and P-0642

56. The Prosecution requests in-court protective measures for P-0580, a crime-base witness,¹⁴³ and [REDACTED] P-0642,¹⁴⁴ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁴⁵ The Prosecution notes that given their profile and serious risks they face, P-0580 and P-0642 [REDACTED].¹⁴⁶ The Prosecution submits that in-court protective measures are necessary, since allowing them to testify publicly would nullify [REDACTED]

¹³⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹³⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹³⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹³⁹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹⁴⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 11.

¹⁴¹ See Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30, referring to PTC I Decision on Witnesses P-0553 and P-0574, ICC-01/12-01/18-184-Conf-Exp; see also Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp.

¹⁴² [REDACTED].

¹⁴³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 17.

¹⁴⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 17.

¹⁴⁵ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

¹⁴⁶ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 13, 17.

ensure their security and could expose them to risks of reprisals by the armed groups.¹⁴⁷

57. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU, [REDACTED]¹⁴⁸ [REDACTED]¹⁴⁹ The VWU indicates that P-0580 and P-0642 [REDACTED].¹⁵⁰ For these reasons, the VWU supports the protective measures sought.¹⁵¹
58. The Chamber notes that P-0580 and P-0642 [REDACTED]. The Chamber thus considers that ensuring the confidentiality of their testimony is necessary to preserve their security. As such, the Chamber considers that P-0580 and P-0642 would face a significant and impermissible risk to their safety should their identity, and consequently their cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0580 and P-0642 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0602

59. The Prosecution requests in-court protective measures for P-0602, a crime-base witness allegedly a victim of sexual and gender-based violence,¹⁵² in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁵³ The Prosecution notes that given her profile and serious risks that she faces, the witness [REDACTED].¹⁵⁴ The Prosecution submits that in-court protective measures are necessary, since allowing her to publicly testify would nullify [REDACTED] to ensure her security and expose her to risks of reprisals by the armed groups.¹⁵⁵

¹⁴⁷ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

¹⁴⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 6.

¹⁴⁹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 7.

¹⁵⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹⁵¹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹⁵² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 16.

¹⁵³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

¹⁵⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para 13, 16.

¹⁵⁵ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 19.

60. The Chamber notes that the Defence does not object to the Second Application. It also notes that the VWU, [REDACTED],¹⁵⁶ [REDACTED].¹⁵⁷ The VWU indicates that [REDACTED] high levels of risk.¹⁵⁸ For these reasons, the VWU supports the protective measures sought.¹⁵⁹
61. The Chamber notes that P-0602 [REDACTED]. The Chamber therefore considers that ensuring the confidentiality of her testimony is necessary to preserve her security. As such, the Chamber considers that P-0602 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0602 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0603

62. The Prosecution requests in-court protective measures for P-0603, a crime-base witness of sexual and gender-based violence, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁶⁰ The Prosecution considers that given her personal circumstances, and as previously established by the Chamber, when it authorised the late disclosure of her identity,¹⁶¹ P-0603 faces an objective risk.¹⁶² The Prosecution also notes that [REDACTED].¹⁶³ The Prosecution submits that although she did not suffer directly from sexual violence, P-0603 [REDACTED] was therefore detained by the Islamic police.¹⁶⁴ The Prosecution notes that P-0603 [REDACTED].¹⁶⁵

¹⁵⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 6.

¹⁵⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 7.

¹⁵⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹⁵⁹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 8.

¹⁶⁰ Second Application, ICC-01/12-01/18-1020-Conf-Exp, paras 23, 31.

¹⁶¹ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 30, referring to Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp, para. 38.

¹⁶² Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 24.

¹⁶³ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 23.

¹⁶⁴ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28.

¹⁶⁵ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28.

63. The Prosecution states that P-0603 is particularly vulnerable [REDACTED].¹⁶⁶ In addition to generally fearing for her security, [REDACTED].¹⁶⁷ Moreover, as the [REDACTED].¹⁶⁸
64. The Chamber notes that the Defence does not object to the Second Application. It also notes that although the VWU conducted an assessment of P-0603, [REDACTED].¹⁶⁹ [REDACTED].¹⁷⁰ The VWU considers that the level of risk to this witness has not subsided and supports any measures that would assist in preserving her anonymity to potential threat actors.¹⁷¹ For this reason, it supports the protective measures sought.¹⁷²
65. The Chamber is satisfied that an objectively justifiable risk for P-0603 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED] and that her security situation, which has already been assessed on prior occasions,¹⁷³ continues to be of concern. [REDACTED],¹⁷⁴ the Chamber considers that P-0603 would face a significant and impermissible risk to her safety should her identity, and consequently her cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0603 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0582

66. The Prosecution requests in-court protective measures for P-0582, an insider witness [REDACTED] [REDACTED] [REDACTED].¹⁷⁵ The Prosecution seeks

¹⁶⁶ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28.

¹⁶⁷ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28.

¹⁶⁸ Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28, referring to PTC I Decision on Confidentiality of Witnesses Identities, ICC-01/12-01/18-322-Conf-Exp, para. 91.

¹⁶⁹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁷⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁷¹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁷² VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 9.

¹⁷³ See Second Application, ICC-01/12-01/18-1020-Conf-Exp, para. 28, referring to PTC I Decision on Confidentiality of Witnesses Identities, ICC-01/12-01/18-322-Conf-Exp, and to Decision on Delayed Disclosure of Witnesses Identities, ICC-01/12-01/18-741-Conf-Exp. .

¹⁷⁴ [REDACTED].

¹⁷⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 54, 56. [REDACTED].

protective measures in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁷⁶

67. The Prosecution indicates that P-0582 [REDACTED] [REDACTED].¹⁷⁷ In this sense, the Prosecution mentions that [REDACTED].¹⁷⁸ In particular, the Prosecution states that P-0582 [REDACTED].¹⁷⁹
68. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].¹⁸⁰ Additionally, [REDACTED] VWU states that [REDACTED].¹⁸¹ Although the VWU states it will be able to provide further observations and recommendations following its meetings with the witness, it is supportive of the protective measures sought.¹⁸²
69. The Chamber notes that P-0582 [REDACTED] ¹⁸³ [REDACTED]. ¹⁸⁴ [REDACTED]. The Chamber therefore defers its decision on the in-court protective measures for P-0582. [REDACTED].

P-0099

70. The Prosecution requests in-court protective measures for P-0099, an insider witness [REDACTED],¹⁸⁵ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁸⁶
71. In particular, the Prosecution indicates that P-0099 [REDACTED].¹⁸⁷ [REDACTED].¹⁸⁸ [REDACTED], where there may be little risk to his physical safety, the Prosecution argues that allowing him to testify publicly could attract

¹⁷⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

¹⁷⁷ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 55.

¹⁷⁸ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 56.

¹⁷⁹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 59.

¹⁸⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 26.

¹⁸¹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

¹⁸² VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 28.

¹⁸³ E-mail of the Prosecution on 15 October 2020 at 8:35.

¹⁸⁴ [REDACTED].

¹⁸⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 65.

¹⁸⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 68.

¹⁸⁷ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 66.

¹⁸⁸ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 66.

the attention of jihadist sympathisers [REDACTED] and, as such, suffer retaliation for being considered a traitor.¹⁸⁹

72. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU has not yet been introduced to P-0099, although it points [REDACTED].¹⁹⁰ While VWU acknowledges that some risk may exist, it considers that it will only be able to submit its observations after undertaking its assessment closer to the time of testimony.¹⁹¹
73. The Chamber finds that the Prosecution did not submit sufficient information as to the existence of a high level of threat with regards to P-0099. The Chamber notes that this determination is without prejudice to the right of the witness to bring his own application for protective measures or the VWU to recommend protective measures once it has made a security assessment for this witness. The Chamber also notes his determination is without prejudice of any eventual request for assurances pursuant to Rule 74 of the Rules.

P-0111

74. The Prosecution requests in-court protective measures for P-0111, an insider witness [REDACTED],¹⁹² in the form of pseudonym, face and voice distortion, and use of private/closed sessions.¹⁹³ The Prosecution submits that given the security situation [REDACTED], and the risk borne by witnesses by their mere association with the Court, an objectively justifiable risk exists.¹⁹⁴ In particular, the Prosecution indicates that P-0111 is vulnerable since [REDACTED].¹⁹⁵
75. The Chamber notes that the Defence does not object to the Third Application. It also notes that [REDACTED], the VWU [REDACTED].¹⁹⁶ Nonetheless, the VWU is of the view that [REDACTED] are factors of significant concern.¹⁹⁷

¹⁸⁹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 67.

¹⁹⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 29.

¹⁹¹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 29.

¹⁹² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 19.

¹⁹³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 27.

¹⁹⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 21.

¹⁹⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 22-23.

¹⁹⁶ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 15.

¹⁹⁷ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 16.

Therefore, it is in principle supportive of the protective measures sought, but reserves its final recommendation until it is able to undertake an independent assessment closer to the time of testimony.¹⁹⁸

76. The Chamber notes that P-0111 [REDACTED]. Having regard to the current security situation [REDACTED],¹⁹⁹ the Chamber considers reasonable to conclude that there is an objectively justifiably risk to his security should his identity and the fact that he is appearing before the Court in this case become known to the public. Consequently, the Chamber grants P-0111 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0130

77. The Prosecution requests in-court protective measures for P-0130, a fact/overview witness [REDACTED],²⁰⁰ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁰¹ The Prosecution submits that given the security situation [REDACTED], and the risk borne by witnesses by their mere association with the Court, an objectively justifiable risk exists.²⁰²
78. In particular, the Prosecution indicates that P-0130 [REDACTED].²⁰³ [REDACTED].²⁰⁴ Lastly, the Prosecution notes that [REDACTED].²⁰⁵
79. The Chamber notes that the Defence does not object to the Third Application. It also notes that [REDACTED],²⁰⁶ it is supportive of the protective measures sought, but will only be able complete its assessment when it meets with the witness immediately prior to testimony.²⁰⁷

¹⁹⁸ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 16.

¹⁹⁹ [REDACTED].

²⁰⁰ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 20.

²⁰¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 41.

²⁰² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 21.

²⁰³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 33.

²⁰⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 34.

²⁰⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 39.

²⁰⁶ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 21.

²⁰⁷ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 21.

80. The Chamber finds that the Prosecution did not submit sufficient information as to the existence of a high level of threat with regard to P-0130. The Chamber [REDACTED]. The Chamber also notes that although the VWU is supportive of the protective measures sought, it will only be able to complete its assessment once it meets with the witness. Accordingly, the Chamber rejects the in-court protective measures in respect of P-0130. The Chamber notes that this determination is without prejudice to the right of the witness to bring his own application for protective measures or the VWU to recommend protective measures once it has made a security assessment for this witness.

P-0147

81. The Prosecution requests in-court protective measures for P-0147, a fact/overview witness [REDACTED],²⁰⁸ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁰⁹ The Prosecution submits that given the security situation [REDACTED], and the risk borne by witnesses by their mere association with the Court, an objectively justifiable risk exists.²¹⁰
82. In particular, the Prosecution indicates that P-0147 [REDACTED].²¹¹ [REDACTED].²¹² [REDACTED].²¹³ [REDACTED].²¹⁴
83. The Prosecution adds that P-0147 has a public profile, [REDACTED].²¹⁵ [REDACTED].²¹⁶ [REDACTED].²¹⁷ In [REDACTED].²¹⁸ The Prosecution notes that P-0147 [REDACTED].²¹⁹

²⁰⁸ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 20.

²⁰⁹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 41.

²¹⁰ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 21.

²¹¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 35.

²¹² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 35.

²¹³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 35.

²¹⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 35.

²¹⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 36.

²¹⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 36.

²¹⁷ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 36.

²¹⁸ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 36.

²¹⁹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 39.

84. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].²²⁰ The Chamber however notes that P-0147 [REDACTED].²²¹ The VWU supports the protective measures sought.²²²
85. The Chamber is satisfied that an objectively justifiable risk for P-0147, who [REDACTED], has been demonstrated. In particular, it notes that although the witness was a [REDACTED], [REDACTED].
86. Having regard to the [REDACTED],²²³ the Chamber considers reasonable to conclude that there is an objectively justifiably risk to his safety, should P-0147's identity and the fact that he is appearing before the Court in this case become known to the public. Consequently, the Chamber grants P-0147 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0524

87. The Prosecution requests in-court protective measures for P-0524, a fact/overview witness, in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²²⁴
88. The Prosecution indicates that P-0524 worked with the [REDACTED] victims of sexual violence in Timbuktu [REDACTED].²²⁵ [REDACTED].²²⁶ She [REDACTED].²²⁷ The Prosecutor notes [REDACTED].²²⁸
89. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU has not yet been introduced or undertaken any detailed assessment of P-0524's specific circumstances.²²⁹ [REDACTED]

²²⁰ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 18.

²²¹ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 19.

²²² VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 19.

²²³ [REDACTED]

²²⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

²²⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 47.

²²⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 47.

²²⁷ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 48.

²²⁸ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 48.

²²⁹ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 23.

[REDACTED], the VWU is of the view that it needs to undertake a more in depth assessment of this witness immediately prior to her testimony.²³⁰

90. The Chamber finds that the Prosecution did not submit sufficient information as to the existence of an objectively justifiable risk with regard to P-0524. Although she [REDACTED], it is unclear to what extent she would be easily recognised by members of the armed groups. Accordingly, the Chamber rejects the request for in-court protective measures in respect of P-0524. The Chamber notes that this determination is without prejudice to the right of the witness to bring her own application for protective measures or the VWU to recommend protective measures once it has made a security assessment for this witness.

P-0537

91. The Prosecution requests in-court protective measures for P-0537, an insider witness [REDACTED],²³¹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²³²
92. The Prosecution indicates that P-0537 [REDACTED].²³³ In this sense, the Prosecution mentions that [REDACTED].²³⁴
93. In particular, the Prosecution states that P-0537 [REDACTED].²³⁵ [REDACTED].²³⁶
94. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].²³⁷ [REDACTED].²³⁸

²³⁰ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 23.

²³¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 54, 56.

²³² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

²³³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 55.

²³⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 56.

²³⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 57.

²³⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 58.

²³⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 26.

²³⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

95. Therefore, the VWU [REDACTED].²³⁹ [REDACTED].²⁴⁰ [REDACTED] it is already supportive of the protective measures sought.²⁴¹
96. The Chamber is satisfied that an objectively justifiable risk for P-0537 has been demonstrated. In this regard, the Chamber points [REDACTED],²⁴² [REDACTED].
97. The Chamber considers that P-0537 would face a significant and impermissible risk to his safety should his identity, and consequently his cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-0537 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0587 and P-0617

98. The Prosecution requests in-court protective measures for P-0587 and P-0617, expert witnesses [REDACTED],²⁴³ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁴⁴ In particular, the witnesses are experts on call data records (the ‘CDRs’) [REDACTED] who produced a technical report for the Prosecution.²⁴⁵ The Prosecution argues that protective measures are necessary in order to preserve their anonymity and security in their activities as analysts/experts in various open and future cases.²⁴⁶ The Prosecution also submits that the witnesses have expressed their wish to testify anonymously, at least with the use of pseudonym.²⁴⁷
99. The Chamber notes that the Defence does not object to the Third Application. It also notes that although the VWU has not been introduced to these witnesses, it

²³⁹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

²⁴⁰ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

²⁴¹ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 28.

²⁴² [REDACTED].

²⁴³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 70.

²⁴⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

²⁴⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 70.

²⁴⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 71.

²⁴⁷ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 75.

is supportive of the protective measures sought, without prejudice of any further information it might submit at a time closer to their planned testimony.²⁴⁸

100. The Chamber considers that an objectively justifiable risk with respect to expert witnesses P-0587 and P-0617 has not been demonstrated. As previously decided in respect of other witnesses,²⁴⁹ the Chamber considers that the mere fact that the witnesses are [REDACTED] is not itself sufficient to justify the use of the protective measures sought. In addition, the Prosecution has not provided sufficient information on the level of threat that P-0587 and P-0617 would face should they testify publicly, [REDACTED]. Accordingly, and unless the VWU's upcoming assessment raises specific concerns, the Chamber rejects the use of in-court protective measures in respect of P-0587 and P-0617. The Chamber notes that this determination is without prejudice to the right of these witnesses to bring their own application for protective measures.

P-0605

101. The Prosecution requests in-court protective measures for P-0605, an insider witness [REDACTED] [REDACTED] [REDACTED],²⁵⁰ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁵¹
102. The Prosecution indicates that P-0605 [REDACTED].²⁵² [REDACTED].²⁵³
103. In particular, the Prosecution states that P-0605 [REDACTED].²⁵⁴ [REDACTED].²⁵⁵
104. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].²⁵⁶ Additionally, [REDACTED] the

²⁴⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, paras 30-31.

²⁴⁹ First decision on in-court protective measures, ICC-01/12-01/18-1019-Conf-Red, paras 20-21; Second decision on in-court protective measures, ICC-01/12-01/18-1067-Conf-Exp, paras 28-29.

²⁵⁰ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 54, 56.

²⁵¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64. [REDACTED].

²⁵² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 55.

²⁵³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 56.

²⁵⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 60.

²⁵⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 60.

²⁵⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 26.

VWU [REDACTED].²⁵⁷ [REDACTED] it is supportive of the protective measures sought.²⁵⁸

105. The Chamber notes that P-0605 [REDACTED].²⁵⁹ [REDACTED]. Accordingly, the Chamber defers its decision on the in-court protective measures for P-0605. [REDACTED].

P-0608

106. The Prosecution requests in-court protective measures for P-0608, a fact/overview witness [REDACTED],²⁶⁰ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁶¹ The Prosecution submits that [REDACTED], and the risk borne by witnesses by their mere association with the Court, an objectively justifiable risk exists.²⁶²
107. In particular, the Prosecution indicates that P-0608 is a female civilian who was in Timbuktu two times during the relevant period.²⁶³ [REDACTED].²⁶⁴ She has [REDACTED].²⁶⁵ Lastly, the Prosecution refers to the fact that P-0608 [REDACTED].²⁶⁶
108. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED],²⁶⁷ [REDACTED].²⁶⁸ While the VWU [REDACTED], it is of the view that the protection measures requested by the Prosecution will assist in managing the risks in respect of P-0608.²⁶⁹
109. The Chamber is satisfied that an objectively justifiable risk for P-0608, [REDACTED] has been demonstrated. [REDACTED]. The Chamber also notes

²⁵⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

²⁵⁸ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 28.

²⁵⁹ [REDACTED].

²⁶⁰ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 20.

²⁶¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 41.

²⁶² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 21.

²⁶³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 38.

²⁶⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 38.

²⁶⁵ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 38.

²⁶⁶ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 39.

²⁶⁷ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 18.

²⁶⁸ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 19.

²⁶⁹ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 19.

the VWU [REDACTED]. Moreover, having regard to the current security situation [REDACTED],²⁷⁰ the Chamber considers reasonable to conclude that there is an objectively justifiably risk, should her identity and the fact that she is appearing before the Court in this case become known to the public. Consequently, the Chamber grants P-0608 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.

P-0634

110. The Prosecution requests in-court protective measures for P-0634, an insider witness [REDACTED] [REDACTED] [REDACTED],²⁷¹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁷²
111. The Prosecution indicates that P-0634 [REDACTED].²⁷³ In this sense, the Prosecution mentions [REDACTED].²⁷⁴
112. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].²⁷⁵ [REDACTED].²⁷⁶ [REDACTED]it is supportive of the protective measures sought.²⁷⁷
113. The Chamber notes that P-0634 [REDACTED].²⁷⁸ [REDACTED]. Accordingly, the Chamber defers its decision on the in-court protective measures for P-0634. [REDACTED].

²⁷⁰ [REDACTED].

²⁷¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 54, 56.

²⁷² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

²⁷³ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 55, 61.

²⁷⁴ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 56.

²⁷⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 26.

²⁷⁶ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

²⁷⁷ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 28.

²⁷⁸ [REDACTED].

P-0647

114. The Prosecution requests in-court protective measures for P-0647, an insider witness [REDACTED] [REDACTED] [REDACTED],²⁷⁹ in the form of pseudonym, face and voice distortion, and use of private/closed sessions.²⁸⁰
115. The Prosecution indicates that P-0647 [REDACTED].²⁸¹ In this sense, the Prosecution [REDACTED].²⁸²
116. The Chamber notes that the Defence does not object to the Third Application. It also notes that the VWU, [REDACTED].²⁸³ Additionally, [REDACTED].²⁸⁴ [REDACTED], it is supportive of the protective measures sought.²⁸⁵
117. The Chamber notes that P-0647 [REDACTED].²⁸⁶ [REDACTED]. The Chamber therefore defers its decision on the in-court protective measures for P-0647. [REDACTED].

P-0660

118. The Prosecution requests in-court protective measures for P-0660, an expert witness [REDACTED],²⁸⁷ in the form of pseudonym and use of private/closed sessions.²⁸⁸
119. The Prosecution indicates that P-0660, a pathologist [REDACTED],²⁸⁹ may suffer retaliation if she testifies openly at the Court.²⁹⁰ In particular, it refers to [REDACTED].²⁹¹

²⁷⁹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 54, 56. [REDACTED].

²⁸⁰ Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 64.

²⁸¹ Third Application, ICC-01/12-01/18-1022-Conf-Exp, paras 55, 62.

²⁸² Third Application, ICC-01/12-01/18-1022-Conf-Exp, para. 56.

²⁸³ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 26.

²⁸⁴ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 27.

²⁸⁵ VWU Second Observations, ICC-01/12-01/18-1052-Conf-Exp, para. 28.

²⁸⁶ [REDACTED].

²⁸⁷ Application for Witness P-0660, ICC-01/12-01/18-1044-Conf-Exp, para. 7.

²⁸⁸ Application for Witness P-0660, ICC-01/12-01/18-1044-Conf-Exp, paras 11-12.

²⁸⁹ Application for Witness P-0660, ICC-01/12-01/18-1044-Conf-Exp, para. 8.

²⁹⁰ Application for Witness P-0660, ICC-01/12-01/18-1044-Conf-Exp, para. 9.

²⁹¹ Application for Witness P-0660, ICC-01/12-01/18-1044-Conf-Exp, para. 9.

120. The Chamber notes that the Application for P-0660 is confidential *ex parte*, and therefore the Defence was not provided an opportunity to make submissions. The Chamber further notes that the VWU has yet to provide an assessment for this witness. The Chamber also notes that the Prosecution's request to file an application to call P-0660 as expert witness has been deferred, pending the receipt of the expert's report.²⁹² Accordingly, the Chamber finds there is not sufficient information before it justifying the in-court protective measures sought. In particular, the Prosecution has not provided information as to the existence of a high level of threat with regard to P-0660. Accordingly, the Chamber rejects the use of in-court protective measures for this witness. This determination is without prejudice to the right of the witness to bring his own application for protective measures or the VWU to recommend protective measures once it has made a security assessment for this witness.

III. Publicity of proceedings

121. In respect of all the witnesses above, the Chamber reiterates that in order to ensure that the protective measures granted do not unduly infringe upon the accused's fundamental right to a public hearing, the parties and participants must conduct their relevant examination in a manner that limits as much as possible the use of private or closed sessions.²⁹³ Indeed, the use of private/closed sessions must remain an exception to the public nature of the proceedings and general information related to the witness must be elicited in public session.²⁹⁴ The Chamber emphasises that the parties may seek to enter into a private/closed session only when identifying information would otherwise be revealed to the public, which would put the identified person at risk.²⁹⁵ The parties are therefore

²⁹² Decision on the Prosecution requests pursuant to Regulation 35 regarding P-0660 and P-0661 and to add 12 items to its Final List of Evidence, 5 August 2020, ICC-01/12-01/18-988-Conf (a public redacted version ICC-01/12-01/18-988-Red was filed on 21 October 2020).

²⁹³ Third decision on in-court protective measures, ICC-01/12-01/18-1113-Conf-Exp, para. 36.

²⁹⁴ Third decision on in-court protective measures, ICC-01/12-01/18-1113-Conf-Exp, para. 36.

²⁹⁵ Third decision on in-court protective measures, ICC-01/12-01/18-1113-Conf-Exp, para. 36. The Chamber reminds that the term 'identifying information' must be interpreted strictly. *See also* Second decision on in-court protective measures, 24 September 2020, ICC-01/12-01/18-1067-Conf-Red, paras 36-37.

instructed to structure their questioning in a way that renders such sessions as short as possible.

122. The Chamber recalls its recent instruction that, in general, risks vis-à-vis the community in Timbuktu do not justify the use of redactions or private sessions (the exception being the risk for some vulnerable crime base witnesses, for example, of ostracism). Private sessions cannot be generally used to avoid recounting of difficult evidence in a public setting. Moreover, general information about the crimes or a witness should not remain confidential or be systematically redacted, as this could reasonably apply to many other individuals.²⁹⁶

IV. Update on witnesses called to testify

123. The Chamber notes that the Prosecution had foreseen filing an application pursuant to Rule 68(2)(b) of the Rules in respect of P-0553 and P-0574.²⁹⁷ In light of the passing of the deadline for such an application, and considering the VWU's recommendation above, the Chamber instructs the Prosecution to submit an update on whether it still intends to call these witnesses to testify.
124. The Chamber also observes that the Prosecution is yet to file an application in respect of the expert report of P-0660. The Chamber therefore instructs the Prosecution to submit an update on whether it still intends to call this witness to testify.
125. In addition to the aforesaid three witnesses, and noting that the present decision rules on all pending request for in-court protective measures, and bearing in mind that recently the Chamber has ruled on the Prosecution's requests pursuant to

²⁹⁶ E-mail of Trial Chamber X on 26 March 2021 at 9:26.

²⁹⁷ See Prosecution urgent request for variation of the time limit to file rule 68 application for MLI-OTP-P-0553 and MLI-OTP-P-0574, 17 December 2020, ICC-01/12-01/18-1209-Conf-Exp (a confidential redacted version ICC-01/12-01/18-1209-Conf-Red was filed on 18 December 2020); Defence Response to 'Confidential redacted version of the "Prosecution urgent request for variation of the time limit to file rule 68 application for MLI-OTP-P-0553 and MLI-OTP-P-0574"', 16 December 2020, ICC-01/12-01/18-1209-Conf-Exp', 8 January 2021, ICC-01/12-01/18-1244-Conf; E-mail of Trial Chamber X Communications on 14 January 2021 at 10:45.

Rule 68(2)(b) and Rule 68(3) of the Rules,²⁹⁸ the Chamber instructs the Prosecution to submit no later than 1 July 2021, an updated list of remaining witnesses, indicating, *inter alia*, the status of protective measures granted, the mode of testimony as well as the estimated time for the examination-in-chief. The Prosecution is instructed to indicate where it no longer intends to call witnesses previously appearing on its list of witnesses.²⁹⁹

²⁹⁸ Decision on Prosecution's requests to introduce prior recorded testimonies under Rule 68(3) of the Rules, 5 August 2020, ICC-01/12-01/18-987-Conf (a public redacted version was notified on 21 October 2020, ICC-01/12-01/18-987-Red); Decision on the introduction of P-0662's prior recorded testimony pursuant to Rules 68(3) of the Rules, 21 October 2020, ICC-01/12-01/18-1119; Second Decision on the introduction of prior recorded testimonies pursuant to Rule 68(2)(b) of the Rules, 26 January 2021, ICC-01/12-01/18-1267-Conf (a public redacted version was notified on 17 February 2021, ICC-01/12-01/18-1267-Red); Decision on the introduction of evidence of witness P-0643, 12 April 2021, ICC-01/12-01/18-1409-Conf; Decision on the introduction of P-0598's evidence pursuant to Rule 68(2)(b) of the Rules, 16 October 2020, ICC-01/12-01/18-1111-Conf (a public redacted version was notified on 29 October 2020, ICC-01/12-01/18-1111-Red); Second Decision on the introduction of prior recorded testimonies pursuant to Rule 68(2)(b) of the Rules, 23 February 2021, ICC-01/12-01/18-1314-Conf-Exp, (a public redacted version was notified on 24 March 2021 ICC-01/12-01/18-1314-Red); Third Decision on the introduction of prior recorded testimonies pursuant to Rule 68(2)(b) of the Rules, ICC-01/12-01/18-1402-Conf-Exp, with partially dissenting opinion of Jude Prost available in Annex A (a confidential redacted version was filed on that same date ICC-01/12-01/18-1402-Conf-Red).

²⁹⁹ Dépôt de la Liste des témoins de l'Accusation, des résumés desdits témoins et de la Liste provisoire des éléments de preuve à charge, 15 April 2020, ICC-01/12-01/18-740-Conf-AnxA.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the requests for in-court protective measures with respect to P-0004, P-0610, P-0622, P-0520, P-0538, P-0542, P-0547, P-0553, P-0574, P-0580, P-0642, P-0602, P-0603, P-0111, P-0147, P-0537 and P-0608;

PARTIALLY GRANTS the request for in-court protective measures with respect to P-0643;

DEFERS the decision in respect of P-0136, P-0582, P-0605, P-0634 and P-0647;

REJECTS the requests for in-court protective measures with respect to P-0150, P-0099, P-0130, P-0524, P-0587, P-0617 and P-0660; and

INSTRUCTS the Prosecution to file the updated list of witnesses described in paragraph 125 above, no later than 1 July 2021.

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

Judge Antoine Kesia-Mbe Mindua
Presiding Judge

Judge Tomoko Akane

Judge Kimberly Prost

Dated this 14 April 2021

At The Hague, The Netherlands