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Rule 88. Live testimony by means of audio or video link technology

(a) In accordance with article 69, paragraph 2, a Chamber of the Court, after hearing from the Prosecutor and the defence and finding that it would not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial, may allow a witness to give viva voce (oral) testimony under the supervision of the Chamber by means of video or audio technology, provided that the technology permits the witness to be examined by the Prosecutor and the defence and by victims or their legal representatives in accordance with rules X to XX at the time that he or she so testifies.

(b) The examination of a witness under this rule shall be conducted in accordance with rules X to XX governing the examination of the witness at trial.

(c) The Chamber, with the assistance of the Registry, shall ensure that the venue chosen for the conduct of the video or audio link testimony is conducive to the giving of truthful and open testimony. Where possible, the venue chosen for the conduct of the video or audio link testimony shall be an embassy, consulate or court facility.

Rule 88 *bis*. Prior recorded testimony

(a) In accordance with article 69, paragraph 2, the Trial Chamber, after hearing from the Prosecutor and the defence and finding that it would not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial, may allow the introduction of previously recorded video or audio testimony of a witness, or the transcript or other

documented evidence of such testimony, provided that both the Prosecutor and the defence had the opportunity to examine the witness during the recording.

Rule 89. Protective measures

(a) Upon the motion of the Prosecutor, the defence, a witness or a victim or his or her legal representative participating in the proceedings pursuant to rules X to XX, or on its own motion, a Chamber may order measures to protect a victim, a witness or another person at risk, pursuant to article 68, paragraphs 1 and 2. A person in respect of whom a protective measure is sought must consent to the protective measure.

(b) A motion under subparagraph (a) shall be governed by rule 6.12, provided that:

(i) Such a motion shall not be submitted *ex parte*;

(ii) A motion by a witness or by a victim or his or her legal representative shall be served on both the Prosecutor and the defence;

(iii) A motion affecting a particular witness or a particular victim shall be served on that witness or victim or his or her legal representative, in addition to the non-moving party;

(iv) When the Chamber proceeds on its own motion, notice and opportunity to respond shall be given to the Prosecutor and the defence, and to any particular witness or any particular victim or his or her legal representative who would be affected by such protective measure; and

(v) A motion may be filed under seal, and if so filed shall remain sealed until otherwise ordered by a Chamber. Responses to motions filed under seal shall also be filed under seal.

(c) A Chamber may hold a hearing on a motion under subparagraph (a), which hearing shall itself be conducted in camera, to determine whether to order measures to prevent the release to the public or press and information agencies, of the identity or the location of a victim, a witness or another person at risk, by ordering, *inter alia*:

(i) That the name of the victim, witness or other person at risk, or any information which could lead to his or her identification, be expunged from the Chamber's public records;

(ii) That the Prosecutor, the defence or any other person or party involved in the proceedings be prohibited from releasing such information to a third party;

(iii) That testimony be presented by electronic or other special means, including the use of technical means enabling the alteration of pictures or voice, the use of audio-visual technology (in particular videoconferencing and closed-circuit television) and the exclusive use of the sound media;

(iv) That a pseudonym be used for a victim, a witness or another person at risk; or

(v) That a Chamber conduct its proceedings or part of its proceedings in camera.

(d) Rulings of a Chamber under this rule must be concurred in by a majority of the Chamber's judges.

Rule 89 bis. Special measures

(a) Upon the motion of the Prosecutor, the defence, a witness or a victim or his or her legal representative participating in the proceedings pursuant to rules X to XX, or on its own motion, a Chamber may order special measures to facilitate the testimony of traumatized victims, a child or a victim of sexual violence pursuant to article 68, paragraphs 1 and 2. A person in respect of whom a special measure is sought must consent to the special measure.

(b) The provisions of rule 89, subparagraph b (i) to (iv) above shall apply *mutatis mutandis* to motions filed under subparagraph (a) of this rule.

(c) The Chamber may hold a hearing on a motion under subparagraph (a) to determine whether to order any such special measure, including:

- (i) The attendance of a psychologist during testimony;
 - (ii) In the case of a minor, and taking into account the age, maturity and views of the minor, the presence of a psychologist, a family member or a legal representative during testimony.
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