

**THE TRIAL CHAMBER**

Case No: STL-11-01/T/TC

Before: Judge David Re, Presiding
Judge Janet Nosworthy
Judge Micheline Braidy
Judge Walid Akoum, Alternate Judge
Judge Nicola Lettieri, Alternate Judge

Registrar: Mr Daryl Mundis

Date: 4 February 2014

Original language: English

Classification: Public

DECISION GRANTING THE PROSECUTION'S MOTION FOR PROTECTIVE MEASURES FOR WITNESS PRH566

(Extract from Official Public Transcript of Hearing on 4 February 2014, page 2, line 7 to page 4, line 10)

Rule 133 of the Rules of Procedure and Evidence allows a Chamber to order appropriate measures for the privacy and protection of victims and witnesses, provided the measures are consistent with the rights of the accused. The Prosecution submitted that the witness requested these measures, having security and privacy concerns as a result of the prevailing tense situation in Lebanon. The measures sought are fully set out in the confidential annex to the Prosecution application, and Defence counsel have a copy. The measures include an order that the witness's identity remains confidential; secondly, he will only be referred to by a pseudonym in public hearings and documents; thirdly, his image and voice which is broadcast publicly shall be distorted; fourthly, that any public documents shall not disclose any identifying information; and fifthly, an order that if any media or third parties become aware of the witness's identity, they are prohibited from disclosing the information.

Due to the urgency of the application, the Trial Chamber shortened the dead-line. The Legal Representative for the Victims stated he did not oppose the request, while counsel for

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Mr. Ayyash and Mr. Sabra said they wouldn't respond. Counsel for Mr. Badreddine submitted that protective measures should remain exceptional. The Trial Chamber agrees with that. And if the Prosecution request is granted, the Chamber should re-visit its decision if it was necessary to hear significant portions of the witness's testimony in closed session. Counsel for Mr. Oneissi requested the Trial Chamber to reject the request and to order the Prosecution to comply with the Rule.

Counsel for Mr. Badreddine also submitted that they concerned about what they termed the "systematic adoption" of protective measures, as this may lead to a trial consisting entirely of anonymous witnesses. The Trial Chamber underlines that this concern, however, is misplaced. The witnesses for whom the Trial Chamber has granted protective measures are not anonymous witnesses. Their identity is known to counsel for the accused, but their identity is not revealed to the public. They are not anonymous witnesses. Further, the Trial Chamber emphasizes that it considers each application carefully and on its merits.

Counsel for Mr. Oneissi's opposition was filed on a confidential response. No reason exists for the response to have been filed confidentially, and the Trial Chamber orders it to be made public as soon as possible with the appropriate redactions. And we suggest they do it in the same way the Prosecution filed its motion, that is, with a confidential annex.

The Trial Chamber considers the protective measures sought are appropriate, given the specific personal circumstances and security concerns of this witness and most specifically because of where he lives. Further, the Chamber is satisfied that the measures sought will not prejudice the rights of the accused. The Chamber highlights that witnesses who are granted protective measures are not anonymous and – as the Defence is aware of their identity, as is the Chamber and the Prosecution and the Legal Representative for the Victims, and they can appropriately investigate and prepare for questioning the witness as a result of knowing who the witness is. Protective measures, where appropriately implemented, simply serve to protect the witness from being exposed to legitimate risks to their personal security and privacy.

The request of the Prosecutor complies with Rule 133 and the Chamber thus grants the protective measures sought for Witness PRH566.

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