

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: 21 January 2015

Original language: English

Classification: Public

THE PROSECUTOR

v.

SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA

**DECISION ON THE MOTION REGARDING PROTECTIVE MEASURES FOR
VICTIM V080**

Office of the Prosecutor:

Mr Norman Farrell, Mr Graeme Cameron
& Mr Alexander Milne

Victims' Legal Representatives:

Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra

Counsel for Mr Salim Jamil Ayyash:

Mr Eugene O'Sullivan, Mr Emile Aoun
& Mr Thomas Hannis

Counsel for Mr Mustafa Amine Badreddine:

Mr Antoine Korkmaz, Mr John Jones
& Mr Iain Edwards

Counsel for Mr Hassan Habib Merhi:

Mr Mohamed Aouini, Ms Dorothee Le Fraper
du Hellen & Mr Jad Khalil

Counsel for Mr Hussein Hassan Oneissi:

Mr Vincent Courcelle-Labrousse, Mr Yasser
Hassan & Mr Philippe Larochelle

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Guénaél Mettetal
& Mr Geoffrey Roberts



BACKGROUND

1. On 18 November 2014, the Legal Representative of Victims filed before the Pre-Trial Judge a motion seeking protective measures pursuant to Rule 133 of the Special Tribunal's Rules of Procedure and Evidence for a victim participating in the proceedings, Victim V080.¹ The Pre-Trial Judge ruled that he was no longer competent to address the motion as he had transferred the case file to the Trial Chamber on 25 October 2013 and the matter no longer fell within his exclusive competence under Rule 130 (B).² Accordingly, on 11 December 2014, the Pre-Trial Judge transmitted the motion to the Trial Chamber.
2. In the motion, the Legal Representative of Victims requests, pursuant to Rule 133, that Victim V080, who was admitted to participate in the proceedings by a decision of the Pre-Trial Judge of 18 July 2014,³ be granted confidentiality.⁴ According to the Legal Representative of Victims, providing measures of protection to Victim V080 is necessary because of specific events affecting his and his family's safety and security. These events are described in a confidential annex to the motion.⁵ Moreover, the measure sought would not cause any prejudice to any of the five Accused since Victim V080's identity would be disclosed to Defence counsel.⁶
3. Neither the Prosecution nor counsel for any of the Accused responded to the motion.

DISCUSSION

4. The Trial Chamber has been seized of the case since 25 October 2013, when the Pre-Trial Judge transferred the case file under Rule 95 (B). The Trial Chamber performs the functions of the Pre-Trial Judge not exclusively assigned to him by Rules 93, 117 and 118.⁷
5. Rule 133 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 Trial

¹ STL-11-01/T/PTJ, *Prosecutor v. Ayyah, Badreddine, Merhi, Oneissi and Sabra*, F1758, Fifth Motion of the Legal Representative of Victims for Protective Measures (Confidentiality) for One Victim Participating in the Proceedings, 18 November 2014.

² F1787, Order Transmitting a Motion to the Trial Chamber, 11 December 2014, paras 3-7.

³ F1621, Fifth Decision on Victim's Participation in the Proceedings, 18 July 2014.

⁴ Motion, paras 13-17.

⁵ Motion, Annex A.

⁶ Motion, para. 16.

⁷ STL-11-01/T/TC, F1424, Decision on Trial Management and Reasons for Decision on Joinder, 25 February 2014, para. 75.

Chamber identified the principles governing the protection of witnesses in decisions of 26 February and 2 July 2014.⁸ They also apply to victims seeking measures of protection.

6. Protective measures, where appropriately implemented, protect witnesses or victims from being exposed to risks to their personal security and privacy. The Trial Chamber considers that protecting Victim V080's identity from the public is necessary and appropriate, given the security risk that the victim is facing, in particular because of specific events affecting the victim's safety, as described in a confidential annex to the motion.⁹ Further, the Trial Chamber is satisfied that the measure sought will not prejudice the rights of the Accused to receive a fair trial. Indeed, the Legal Representative of Victims only requested that Victim V080's identity be protected vis-à-vis the public; it is to be disclosed to the Defence and the Prosecution. In light of this, the request of the Legal Representative of Victims complies with Rule 133 and the Trial Chamber thus grants the protective measures sought.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

GRANTS the protective measure requested for the victim participating in the proceedings, Victim V080;

ORDERS that –

the identity of Victim V080 must remain confidential;

no person, including anyone associated with the media, who becomes aware of the identity of Victim V080 and their involvement in these proceedings, may disclose information protected by these orders; and

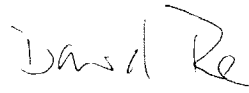
REAFFIRMS that a knowing violation of these orders may result in prosecution under Rule 60 *bis*, 'Contempt and Obstruction of Justice', punishable by a term of imprisonment not exceeding seven years, or a fine not exceeding 100,000 euros, or both.

⁸ F1429, Decision on Protective Measures for Six Witnesses Giving Evidence Under Rule 155, 26 February 2014, paras 4-6; F1606, Consolidated Decision on the Prosecution Motions for Protective Measures Regarding Ten Witnesses, 2 July 2014, paras 4-6.

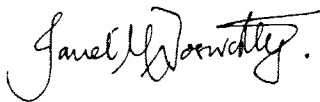
⁹ Motion, Annex A.

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

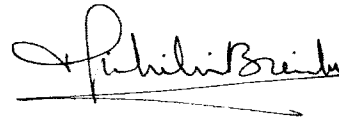
Leidschendam,
The Netherlands
21 January 2015



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

