

**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: 15 April 2015

Original language: English

Classification: Public

**DECISION GRANTING PROTECTIVE MEASURES FOR WITNESSES PRH277,
PRH041, PRH459, AND PRH148**

(Extract from Official Public Transcript of Hearing on 15 April 2015, page 2, line 19 to
page 5, line 20)

In a motion of the 24th of March, 2015, the Prosecution requested the Trial Chamber to order protective measures under Rule 133 of the Special Tribunal's Rules of Procedure and Evidence to maintain the confidentiality of Witnesses 277, 041, 459, and 148. The Prosecution requests protective measures: One, to order the identities of the four witnesses remain confidential and that parties and participants in the proceedings maintain this confidentiality and information which may identify them; secondly, using a pseudonym to refer to the witness in all public hearings and documents; thirdly, redacting from any documents made public any information that may identify the witness; fourthly, voice and image distortion for Witnesses 277, 041, and 459, if they testify live; and fifthly, an order that the media and any third parties who become aware of the identity of any of the witnesses or of the information which may identify them are prohibited from disclosing that information, unless it has already been disclosed publicly by the Tribunal.

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The Prosecution also provided the Trial Chamber and the parties with witness statements and additional documents detailing the nature and reasons for the request, that is, the concerns of the witnesses.

One Defence counsel - that is counsel for Mr. Badreddine -responded to the motion, and they objected only to protective measures for one of the witnesses, Witness 277, on the basis that the Prosecution did not advance any persuasive reasons justifying the measures requested. Counsel for Mr. Badreddine also argue that allowing the measures for this witness could necessitate the Chamber having to go into closed session for significant parts of the witness's testimony.

The Trial Chamber reiterates the protective measures are granted on a case-by-case basis and on the basis of persuasive evidence of each application and only when the Chamber is satisfied that the measures will not prejudice the rights of the five accused to a fair trial. The Prosecution -- sorry, the Trial Chamber has carefully reviewed the information provided by the Prosecution and the Trial Chamber considers that the measures requested are justified by the prevailing general security situation in Lebanon and the personal circumstances of each witness as described in the annexes to the Prosecution motion and the relevant witness statements.

More specifically, the Prosecution has persuasively demonstrated that Witness 041's employment and livelihood could be compromised if his status as a witness becomes publicly known. Similarly, Witness 459's employment prospects, his ability to travel, and his family's safety could be affected if his identity is made public. The Trial Chamber also agrees with the Prosecution's submission that publicly disclosing Witness 148's identity would violate her medical privacy. This is because the witness's written statement has already been declared admissible under Rule 158 of the Tribunal's Rules and details her medical condition.

Finally, the Trial Chamber disagrees with the submissions of counsel for Mr. Badreddine that the Prosecution has not persuasively shown the protective measures are also justified for Witness 277. Given the nature of the witness's work, the disclosure of his identity might jeopardize his ability to carry out his functions safely. It is also unclear from the Defence submissions why granting protective measures to this witness could result in closed-session testimony, as there was no explanation in the response as to why this could occur.

The Trial Chamber again emphasizes the importance of a public trial, a trial as spelled out in Rule 136, according to which:

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"All proceedings before a Chamber . . . shall be held in public, unless otherwise decided."

The Trial Chamber, to date, has only heard evidence in public and emphasizes that it will continue to do so unless exceptional circumstances, such as those listed in Rule 137, justify our deviating from this practice.

For these reasons, the Chamber grants the protective measures requested by the Prosecution, namely the following: The identity of Witnesses PRH277, 041, 459, and 148 must remain confidential; those witnesses must only be referred to by their pseudonyms in the Tribunal's public hearings and published documents; information relating to these witnesses must be redacted from public documents which identify them as witnesses at the trial; and when testifying before the Chamber, the publicly broadcasted images and voices of Witnesses 277, 041, and 459 must be distorted and unrecognizable. When I said "testifying before the Chamber," I mean before the Special Tribunal in general. Finally, no person including members of the media and third parties who become aware of the identity of Witnesses 277, 041, 459, and 148 and their involvement in these proceedings may disclose information protected by this order.

The Chamber reaffirms that a knowing violation of this order may result in prosecution under Rule 60 bis of the Rules of the Tribunal. The heading of Rule 60 bis is: "Contempt and obstruction of justice."

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