

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**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:** 20 August 2015

**Original language:** English

**Classification:** Public

**THE PROSECUTOR**  
v.  
**SALIM JAMIL AYYASH**  
**MUSTAFA AMINE BADREDDINE**  
**HASSAN HABIB MERHI**  
**HUSSEIN HASSAN ONEISSI**  
**ASSAD HASSAN SABRA**

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**DECISION ON PROSECUTION MOTION FOR PROTECTIVE MEASURES  
FOR WITNESSES PRH089, PRH264 AND PRH306**

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**Office of the Prosecutor:**Mr Norman Farrell, Mr Graeme Cameron  
& Mr Alexander Hugh Milne**Counsel for Mr Salim Jamil Ayyash:**Mr Eugene O'Sullivan, Mr Emile Aoun &  
Mr Thomas Hannis**Victims' Legal Representatives:**Mr Peter Haynes, Mr Mohammad F. Mattar  
& Ms Nada Abdelsater-Abusamra**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 Dorothée Le Fraper  
du Hellen & Mr Jad Khalil**Counsel for Mr Hussein Hassan Oneissi:**Mr Vincent Courcelle-Labrousse, Mr Youssef  
Hassan & Mr Philippe Larochelle**Counsel for Mr Assad Hassan Sabra:**Mr David Young, Mr Guénaél Meunier  
Mr Geoffrey Roberts

## INTRODUCTION

1. The Prosecution has requested the Trial Chamber to order protective measures under Rule 133 of the Special Tribunal's Rules of Procedure and Evidence for three witnesses, Witnesses PRH089, PRH264 and PRH306.<sup>1</sup> Counsel for the Accused, Mr Mustafa Amine Badreddine, responded to the motion.<sup>2</sup>

## SUBMISSIONS

2. The Prosecution submits that public disclosure of the witnesses' identity would raise security concerns, especially as they are expected to give evidence relating to an Accused. Protective measures would not prejudice the rights of the Accused as the witnesses' identity and witness statements have been disclosed to the Parties and Legal Representative of the Victims.<sup>3</sup>

3. Witness 089 expressed security, job and livelihood concerns. Witness 264 will testify about his knowing an Accused person and feared that disclosure of his identity will endanger himself, his family, and his work relationships. Witness 306 is concerned—if he were publicly identified as a witness—that his family's safety and his personal safety when travelling would be endangered.<sup>4</sup>

4. As the annexes contain personal details and identifying information about the witnesses, the Prosecution requests that they remain confidential. The Prosecution also requests that it not publicly redact Annex B, submitting that no meaningful redaction is possible.<sup>5</sup>

5. Counsel for Mr Badreddine took no position on the protective measures, but reserved the right to seek a variation if it becomes relevant and necessary for their case.<sup>6</sup>

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<sup>1</sup> STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2098, Prosecution Motion for Protective Measures for PRH089, PRH264 and PRH306, 24 July 2015. The requested protective measures are as set out in the Disposition on p. 3 of this decision.

<sup>2</sup> F2117, Consolidated Badreddine Response to Prosecution Motions for Protective Measures and Testimony by Video-Conference Link, 10 August 2015. Only one paragraph of the response concerns the requested protective measures; the rest is about two Prosecution motions for video-conference link testimony.

<sup>3</sup> Prosecution motion, paras 5-8.

<sup>4</sup> Prosecution motion, paras 5-7.

<sup>5</sup> Prosecution motion, paras 10-12.

<sup>6</sup> Badreddine response, para. 3.

## **DISCUSSION**

6. The principles governing the protection of witnesses are set out in the Trial Chamber's decisions of 26 February and 2 July 2014.<sup>7</sup> Protective measures will be granted case-by-case, on the basis of persuasive evidence for each application, and only when the Trial Chamber is satisfied that these measures will not prejudice the rights of the Accused to a fair trial.

7. The Trial Chamber considers the measures requested are justified by the general security situation in Lebanon and the personal circumstances of each witness as described in the statements listed in Annex A to the motion. Moreover, particular security concerns arise because these witnesses are expected to give evidence relating personally to an Accused.

8. The Trial Chamber is satisfied that, because the witnesses' identities and statements have been disclosed to the Defence, granting the requested protective measures will not prejudice the rights of the Accused to a fair trial.

## **CONFIDENTIALITY**

9. The Prosecution has requested that the annexes to the motion remain confidential and submitted that Annex B cannot be meaningfully publicly redacted. As the annexes contain personal details and identifying information of the witnesses, the Trial Chamber grants the request. However, the Trial Chamber disagrees that Annex B cannot be publicly redacted. Annex B is virtually identical to similar annexes in previous motions for protective measures—only changing the witness pseudonym. The Prosecution did not submit that it could not meaningfully redact those annexes, so it is unclear why this annex is different such that it cannot be redacted. The Trial Chamber reemphasises the public nature of the proceedings and orders that publicly redacted copies be filed.

## **DISPOSITION**

**FOR THESE REASONS**, the Trial Chamber:

**GRANTS** the protective measures requested for Witnesses PRH089, PRH264 and PRH306;

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<sup>7</sup> 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.

**ORDERS** that:

- the identity of Witnesses PRH089, PRH264 and PRH306 must remain confidential;
- Witnesses PRH089, PRH264 and PRH306 must only be described by their pseudonyms in public hearings and published documents;
- information related to Witnesses PRH089, PRH264 and PRH306 must be redacted from public documents which identify the witnesses at trial;
- if testifying before the Special Tribunal, the publicly broadcasted images and voice of Witnesses PRH089, PRH264 and PRH306 must be distorted and unrecognisable;
- no person, including members of the media and third parties who become aware of the identity of Witnesses PRH089, PRH264 and PRH306 and their involvement in these proceedings, may disclose information protected by these orders;

**REAFFIRMS** that a knowing violation of this order may result in prosecution under Rule 60 *bis*;<sup>8</sup> and

**ORDERS** the Prosecution to file public redacted copies of Annexes A and B to the motion.

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

Leidschendam,  
The Netherlands

20 August 2015

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braïdy

Judge Micheline Braïdy



<sup>8</sup> Punishable by a term of imprisonment not exceeding seven years, or a fine not exceeding 100,000 euros or both.