

**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:** 3 September 2015

**Original language:** English

**Classification:** Public

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**DECISION DECLINING RECONSIDERING OF THE TRIAL CHAMBER'S  
DECISION DATED 27 AUGUST 2015**

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(Extract from Official Public Transcript of Hearing on 3 September 2015, page 94, line 10 to page 97, line 8)

[This] is a protective measures decision in respect of filing F2145, the "Prosecution motion for protective measures for PRH553," filed on the 28th of August, 2015.

As the witness is scheduled to testify on the 8th of September, 2015, the Trial Chamber, by e-mail to the parties, shortened the dead-line for filing a response to the 1st of September.

Witness 553 requested protective measures because he fears that public identification would endanger his business and livelihood. The Prosecution therefore requested the following protective measures for this witness:

1. An order that his identity remain confidential and that parties and participants, including victims participating in the proceedings who attend court sessions, shall maintain the confidentiality of the witness's identity and information which may identify him;
2. Using a pseudonym in all public hearings and public documents;

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3. That any documents that disclosed to the public must be redacted to protect the witness's identity and information which might identify him as a witness at trial;

4. That the publicly broadcasted image and voice of Witness 553 be distorted and unrecognizable; and

5. An order that the media and any third parties, if they become aware of the witness's identity or information that may identify him, are prohibited from disclosing the identity, whereabouts, and information which may identify the witness or anyone related to or associated with him unless the information has been publicly disclosed by the Special Tribunal.

Counsel for the accused Mr. Assad Hassan Sabra responded to the motion in filing F2159, "Sabra Defence response to Prosecution motion for protective measures for PRH553," dated the 1st of September, 2015.

Counsel opposed the request, submitting that the Prosecution had failed to substantiate why the witness required protective measures. Counsel disagreed that publicly testifying would negatively affect the witness's business and livelihood. They submit that protective measures would be ineffective at concealing the witness's identity and argue that, as they will cross-examine him on his credibility, they should be able to do so without the witness being "shielded from public accountability."

The following day, 2nd of September, 2015, the Prosecution replied, addressing two issues. That's filing F2167, "Prosecution reply to Sabra Defence response to Prosecution motion for protective measures for PRH553."

The Prosecution submitted that the requested protective measures are necessary and will be effective in protecting the witness's identity. They oppose the submissions that protective measures will shield the witness from public accountability.

The Trial Chamber has carefully considered the Prosecution's submissions and the statements provided supporting the request for protective measures and the response of counsel for Mr. Sabra.

The Trial Chamber is satisfied that the protective measures sought are appropriate given the specific personal circumstances and security concerns voiced by the witness. The Trial Chamber is also satisfied that the measures sought will not prejudice the rights of the accused to a fair trial because the witness's identity has been disclosed to the Defence and

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Defence counsel have received all the confidential material filed in support of the Prosecution motion.

The Trial Chamber does not understand how protective measures could prevent counsel for Mr. Sabra from effectively testing the witness's credibility during his testimony. Protective measures do not "shield a witness from public accountability," rather they protect witnesses from threats to their safety.

For these reasons, the Trial Chamber finds that the Prosecution's request complies with Rule 133 in relation to protective measures and accordingly grants the protective measures sought for Witness PRH553; that is, the five orders I referred to earlier.

In addition to the measures protected, the Prosecution also requests the Trial Chamber to maintain the confidential status of the witness statement and its reply. Counsel for Mr. Sabra also filed their response confidentially.

Given that the statement, the response, and the reply contain personal details and identifying information of the witness and specify his security concerns, the Trial Chamber grants the request and orders that the statement, response, and reply remain confidential but orders counsel for Mr. Sabra and the Prosecution to file publicly redacted versions in due course.

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