

**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: 17 September 2015

Original language: English

Classification: Public

**DECISION GRANTING PROTECTIVE MEASURES FOR WITNESSES PRH056,
PRH087, AND PRH402**

(Extract from Official Public Transcript of Hearing on 17 September 2015, page 42, line 6 to
page 45, line 9)

The Prosecution on the 24th of August, 2015, filed a motion seeking protective measures for Witnesses PRH056, 087, and 402 in filing F2138.

Witness 56 and 87, who are the subject of a pending Prosecution motion to admit their witness statements into evidence under Rule 156 of the Special Tribunal's Rules of Procedure and Evidence, have notified the Prosecution of security concerns related to the safety of their families. These concerns are set out in a confidential annex to the motion.

The Trial Chamber, in a decision on the 27th of March, filing F1890, "Decision on Prosecution motion to admit the statements of Witnesses PRH402 and PRH636," declared that Witness 402 was unavailable within the meaning of Rule 158 and declared his witness statement admissible.

Under Rule 158, the evidence of a witness may be received in written form if the person has died, or can no longer with reasonable diligence be traced, or is for good reason otherwise unavailable to testify orally.

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That statement of Witness 402 contains identifying information including his name. Witness 402 is a Syrian person who was injured in the explosion in Beirut on the 14th of February, 2005. In his statement he describes being on the Corniche next to the St. Georges Hotel when the explosion occurred, falling unconscious and waking up in hospital with physical injuries.

In that decision, the Trial Chamber was satisfied that the witness was unavailable as the Prosecution had made all reasonable efforts to find the witness but were unable to.

The Prosecution now requests protective measures for Witness 402 on his behalf, submitting that if he can be found and contacted in the future, he, the witness, can then decide whether he would like protective measures. But his unable availability now should not prevent him from being able to seek protective measures in the future, otherwise it would be rendered ineffective by revealing his name publicly now.

The Prosecution requests the following protective measures for these three witnesses:

First, an order that their identities 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 identities and information which may identify them.

Two, use of pseudonyms in all public hearings and public documents.

Three, that any documents that are disclosed to the public must be redacted to protect the witnesses' identities and information which may identify them as witnesses at trial.

Four, that the publicly broadcasted images and voices of Witnesses 56 and 87 be distorted and unrecognizable.

And finally, five, an order that the media and any third parties, if they become aware of the identity of the witnesses or information which may identify them, are prohibited from disclosing the identity, whereabouts, and information which may identify the witnesses or anyone related to or associated with them unless that information has been publicly disclosed by the Special Tribunal.

No Defence counsel responded to the motion; that is to say, they neither supported nor opposed it.

The Chamber has carefully consider the Prosecution's submissions and the statements provided in support of the request for protective measures. The Trial Chamber is satisfied that the protective measures sought are appropriate given the specific personal circumstances and security concerns voiced by the witnesses, by the three witnesses.

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For Witness 402 specifically, that is, the Syrian person who the Chamber has declared unavailable, the Chamber considers it is in the interests of justice to grant him protective measures. But if he is ever traced - that is, found - the issue may be revisited; that is, the witness may be approached and asked whether he seeks the continuation of the protective measures.

The Chamber is also satisfied that the measures sought will not prejudice the rights of the accused to a fair trial as the witnesses' identities have been disclosed to the Defence, and they have received all the confidential material filed in support of the Prosecution motion.

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 for Witnesses 056, 087, and 402 as outlined above in proposed orders 1 through to 5.

In addition to the measures requested, the Prosecution also requests the Trial Chamber to maintain the confidential status of the witness statements supporting the motion and Annex A to the motion. Given that statement and annex contains personal details and identifying information of the witnesses and specify their security concerns, the Chamber grants the Prosecution's request and orders that the statement and response remain confidential.

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