

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: 5 November 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 PROTECTIVE MEASURES
FOR WITNESS PRH647**

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 Iain Edwards & Ms
Mylene Dimitri

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 Yasser
Hassan & Mr Philippe Laroche

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Guénaél Mettraux
& Mr Geoffrey Roberts



INTRODUCTION

1. On 16 October 2015, the Prosecution filed a motion requesting, under Rule 133 of the Special Tribunal's Rules of Procedure and Evidence, protective measures for Witness PRH647.¹ In its decision of 2 November 2015, the Trial Chamber declared a statement by this witness admissible under Rule 155 (C) and required him to attend for cross-examination.²

SUBMISSIONS

2. The Prosecution submits that publically disclosing Witness 647's identity would raise security concerns for him due to his evidence relating to an accused. His security concerns are increased as a result of where he resides within Lebanon. The particular personal circumstances warranting protective measures are described in a confidential statement by a Prosecution investigator that was filed with the motion.³

3. The Prosecution accordingly requests that the witness's identity remain confidential; that he only be referred to in public hearings and documents by a pseudonym; that any documents disclosed to the public be redacted to protect his identity; that his image and voice be distorted and unrecognizable if publically broadcast; and that the media and any third parties are prohibited from disclosing his identity, whereabouts and information which may identify him, unless that information has been publically disclosed by the Special Tribunal.⁴

4. The Prosecution submits that these protective measures would not prejudice the rights of the Accused as the witness's identity and statement have been disclosed to the Parties and Legal Representative of the Victims.⁵

5. Counsel for Mr Badreddine and Mr Merhi responded to the motion, but took no position on the requested protective measures for this witness.⁶

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2271, Prosecution Motion for Video-Conference Link Testimony for PRH101, PRH289, PRH065, and Protective Measures for PRH101, PRH078, PRH650, PRH647, PRH050, PRH086, PRH688, 16 October 2015.

² F2297, Decision on Prosecution Motion for the Admission of Witness Statements pursuant to Rule 155 and documents pursuant to Rule 154, 2 November 2015.

³ Prosecution motion, para. 17.

⁴ Prosecution motion, para. 22.

⁵ Prosecution motion, para. 21.

⁶ Badreddine response, para. 2 ; Merhi response, para. 1.

DISCUSSION

6. The principles governing the protection of witnesses are in the Trial Chamber's decisions of 26 February and 2 July 2014.⁷ Protective measures will be granted case-by-case, on the basis of persuasive evidence for each application, but only if the Trial Chamber is satisfied that these measures will not prejudice the rights of the Accused to a fair trial.

7. The Trial Chamber has carefully reviewed the Prosecution's submissions and the witness statement by the Prosecution investigator detailing Witness 647's concerns. On this basis, it considers the requested measures justified by the general security situation in Lebanon, and specifically, the nature of the witness's evidence and place of residence.

8. The Trial Chamber is satisfied that, because the witness's identity and statement 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. In a decision issued in regard to one of the other witnesses affected by the Prosecution motion, the Trial Chamber held that Annex A to the motion may remain confidential in this instance, without a publicly redacted version needing to be filed.⁸

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

GRANTS the protective measures requested for Witness PRH647;

ORDERS that:

- the identity of Witness PRH647 must remain confidential;
- Witness PRH647 must only be described by a pseudonym in public hearings and published documents;

⁷ 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.

⁸ F2284, Decision on Prosecution Motion for Protective Measures for Witness PRH688, 23 October 2015, para. 6.

- information related to Witness PRH647 must be redacted from public documents which identify the witnesses at trial;
- when testifying before the Special Tribunal, the publicly broadcasted images and voice of Witness PRH647 must be distorted and unrecognisable;
- no person, including members of the media and third parties who become aware of the identity of Witness PRH647 and his involvement in these proceedings, may disclose information protected by these orders; and

REAFFIRMS that a knowing violation of this order may result in prosecution under Rule 60 *bis*.⁹

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

Leidschendam,
The Netherlands
5 November 2015

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy



⁹ Punishable by a term of imprisonment not exceeding seven years, or a fine not exceeding 100,000 euros or both.