

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

BEFORE THE TRIAL CHAMBER**SPECIAL TRIBUNAL FOR LEBANON**

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 July 2016

Original language: English

Classification: Public

PROSECUTOR

v.

**SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

DECISION GRANTING PROTECTIVE MEASURES FOR WITNESS PRH708**Office of the Prosecutor:**Mr Norman Farrell, Mr Graeme Cameron
and Mr Alexander Hugh Milne**Legal Representatives of
Participating Victims:**Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra**Counsel for Mr Salim Jamil Ayyash:**Mr Emile Aoun, Mr Thomas Hannis & Mr Chad
Mair**Counsel for Mr Hassan Habib Merhi:**Mr Mohamed Aouini, Ms Dorothee Le Fraper du
Hellen & Mr Jad Khalil**Counsel for Mr Hussein Hassan Oneissi:**Mr Vincent Courcelle-Labrousse, Mr Yasser
Hassan & Ms Natalie von Wistinghausen**Counsel for Mr Assad Hassan Sabra:**Mr David Young, Mr Guénaél Mettraux &
Mr Geoffrey Roberts

SUBMISSIONS AND DISCUSSION

1. The Prosecution filed a motion requesting, under Rule 133 of the Special Tribunal's Rules of Procedure and Evidence, protective measures for Witness PRH708.¹ The Defence did not respond to the motion.

2. The Prosecution submits that publicly disclosing Witness 708's identity would raise security and privacy concerns for the witness and his family due to the fact that the witness is going to give evidence relating to an Accused. Public disclosure would therefore have a negative impact on the witness's employment and livelihood. Furthermore, disclosing the witness's identity may also reveal or assist in revealing the identities of other witnesses who have been granted protective measures. The particular personal circumstances warranting protective measures are described in a confidential Prosecution witness statement.

3. The Prosecution 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 that are disclosed to the public be redacted to protect the witness's identity and information which may identify him as a witness at trial; that the publicly broadcasted image and voice of the witness shall be distorted and unrecognizable; and that the media and any third parties, in the event that they become aware of the witness's identity or information which may identify him, are prohibited from disclosing his identity, whereabouts and information, unless that information has been publicly disclosed by the Special Tribunal. Finally, protective measures would not prejudice the rights of the Accused as the witness's identity and statements have already been disclosed to the Defence.²

4. The Trial Chamber has carefully reviewed the Prosecution's submissions and its witness statement detailing Witness 708's concerns, in line with its previous decisions on protective measures.³ The Trial Chamber is satisfied that the requested protective measures are necessary due to the general security situation in Lebanon and the witness's concern for his privacy, security and livelihood that could result from having his identity revealed, in particular because his testimony relates to an Accused.⁴ Furthermore, disclosing the witness's

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2592, Prosecution Motion for Protective Measures for PRH708, 9 May 2016.

² Prosecution motion, paras 1 and 7.

³ 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.

⁴ ERN 60317419-60317423, dated 15 April 2016.

identity may also reveal or assist in revealing the identities of other witnesses who have been granted protective measures.⁵

5. The Trial Chamber is satisfied that, since the witness's identity and statements were disclosed to the Defence, granting the protective measures requested will not prejudice the Accused's right to a fair trial. The Trial Chamber also notes the lack of any objection from the Defence.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

GRANTS the protective measures requested for Witness PRH708;

ORDERS that:

- the identity of Witness PRH708 must remain confidential;
- Witness PRH708 must be referred to by a pseudonym in all public hearings and published documents;
- any information that is disclosed to the public which may identify Witness PRH708 as a witness at trial shall be redacted from public documents ;
- when testifying before the Special Tribunal, the publicly broadcasted images and voice of Witness PRH708 must be distorted and unrecognizable;
- no person, including members of the media and third parties who become aware of the identity of Witness PRH708 and his involvements in these proceedings may disclose information protected by these orders; and

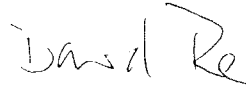
REAFFIRMS that a knowing violation of this order may result in prosecution under Rule 60 *bis*.⁶

⁵ F2468, Decision on Prosecution Request to Add Witness PRH708 to its Witness List, 25 February 2016, para. 6; Oral decision postponing Badreddine Defence's cross-examination of Witness PRH089, Transcript of 15 December 2015, pp 34-35.


⁶ Under Rule 60 *bis* 'Contempt and Obstruction of Justice', such a violation is punishable by a term of imprisonment not exceeding seven years, or a fine not exceeding 100,000 euros, or both.

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

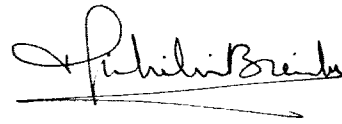
Leidschendam,
The Netherlands
15 July 2016



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

