R297646

STL-11-01/T/TC F3233/20170718/R297646-R297648/EN/dm

SPECIAL TRIBUNAL FOR LEBANON		المحكمة الخاصبة بلبنان	TRIBUNAL SPÉCIAL POUR LE LIBAN
		THE TRIAL CHAMBER	<u>R</u>
	SPECI	AL TRIBUNAL FOR LE	BANON
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:	18 July 2017		
Original language:	Englis	h	
Classification:	Public		
		THE PROSECUTOR	
		v. SALIM JAMIL AYYASH	Ŧ
		HASSAN HABIB MERH	
	H	USSEIN HASSAN ONEIS	SSI
		ASSAD HASSAN SABRA	4

DECISION ON PROSECUTION MOTION FOR PROTECTIVE MEASURES FOR WITNESSES PRH049 AND PRH447

Office of the Prosecutor:

Mr Norman Farrell & 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 Dorothée Le Fraper du Hellen & Mr Jad Yussef Khalil

Counsel for Mr Hussein Hassan Oneissi: Mr Vincent Courcelle-Labrousse, Mr Yasser Hassan & Ms Natalie von Wistinghausen

Counsel for Mr Assad Hassan Sab

Mr David Young, Mr Geoffrey Robe Ms Sarah Bafadhel



1. The Prosecution requests protective measures for Witnesses PRH049 and PRH447, under Rule 133 of the Special Tribunal's Rules of Procedure and Evidence, to maintain their confidential identities.¹ The Trial Chamber has declared the witnesses' statements admissible, under Rule 155, without requiring them to attend court.²

2. A Party tendering a witness statement into evidence, in this case the Prosecution, must read onto the court record, in a public hearing, a summary of the statement.³ The Prosecution submits that publicly disclosing the witnesses' identities would raise security concerns for them and their families and may negatively impact their livelihood. The witnesses' evidence relate to a former accused, Mr Mustafa Amine Badreddine, which has previously led the Trial Chamber to grant protective measures to witnesses. Both witnesses live and work in Lebanon, their security concerns should, therefore, be considered in the context of the reportedly tense political and security situation prevailing in the country. The Prosecution has sought the witnesses' consent to the protective measures, and submitted their particular circumstances through confidential statements of Prosecution investigators.⁴ The Defence has notice of the witnesses' identities and evidence which enables it to respond to the Prosecution's case.⁵ Defence counsel did not oppose the Prosecution motion.⁶

3. The Trial Chamber has carefully reviewed the Prosecution's submission and the information contained in the Prosecution investigators' confidential statements detailing the witnesses' concerns. The Trial Chamber is satisfied that the conditions set out in Rule 133 are met. The requested protective measures are appropriate and justified for these witnesses, with one exception, namely the measure of distortion and altering of the witnesses' publicly broadcasted images and voice. The witnesses are not required to appear for cross-examination, therefore, this measure is unnecessary. The Trial Chamber is also satisfied that the measures will not affect the fair trial rights of the Accused.

⁵ Prosecution motion, paras 1-9.

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3129, Prosecution Motion for Protective Measures for PRH049 and PRH447, 9 May 2017 ('Prosecution motion').

² F3229, Decision on Prosecution Motion to Admit 18 Documentary Exhibits and Three Witness Statements under Rules 154 and 155, relating to Named Co-conspirator Mustafa Amine Badreddine, 14 July 2017, paras 31-34, disposition.

³ F1326, Directions on the Conduct of the Proceedings, 'Guidelines on the Conduct of Proceedings', 16 January 2014, para. 8; F2541, Decision on In-Court Summaries of Evidence, 7 April 2016, para. 30.

⁴ Witness 049's concerns are included in the witness statements of a Prosecution investigator, dated 9 April 2015, and Mr Erich Karnberger (Witness PRH312), dated 9 May 2017. Witness 447's circumstances are described in the witness statement of Mr Gregory Purser (Witness PRH448), dated 8 May 2017.

⁶ Emails from Defence on 10 and 11 May 2017 to the Trial Chamber's legal officer.

FOR THESE REASONS, the Trial Chamber:

GRANTS the following protective measures for Witnesses PRH049 and PRH447;

ORDERS that:

- the identities of the witnesses must remain confidential;
- the witnesses be referred to by pseudonyms in all public hearings and published documents;
- any documents that are disclosed to the public shall be redacted to protect the witnesses' identities and information which may identify them as witnesses at trial;
- no person, including members of the media and third parties who become aware of the identities of the witnesses and their involvement in these proceedings may disclose information protected by these orders;

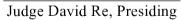
REAFFIRMS that a knowing violation of this order may result in prosecution under Rule 60 *bis*;⁷ and

MAINTAINS the confidentiality of the Prosecution investigators' statements until it decides otherwise.

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

Leidschendam, The Netherlands 18 July 2017

Davil Ro



Judge Janet Nosworthy

Judge Micheline Braidy



⁷ Punishable by a term of imprisonment not exceeding seven years, or a fine not exceeding 100,00 both.

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