

**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:** 14 October 2015

**Original language:** English

**Classification:** Public

---

**DECISION GRANTING VIDEO-CONFERENCE LINK TESTIMONY, AND  
DISMISSING THE PROSECUTION'S APPLICATION FOR PROTECTIVE  
MEASURES FOR WITNESS PRH055**

---

(Extract from Official Public Transcript of Hearing on 14 October 2015, page 28, line 11 to  
page 31, line 10)

The Trial Chamber will issue another decision, which is the following. It's on filing F2169, "Prosecution motion for protective measures and video-conference link testimony for PRH055," 3rd of September, 2015.

The Prosecution, on 3rd of September, 2015, filed a motion seeking protective measures under Rule 133 and authorization for testimony by video-conference link for Witness PRH055. [I]n the motion, the Prosecution referred to the witness having identified security, privacy, and livelihood concerns that led him to request protective measures. The Prosecution outlined that the witness believed that travelling to the Netherlands would draw attention to him and that he would prefer to testify from the Special Tribunal's office in Beirut.

The Prosecution requested the following measures:

One, an order that the identity of Witness 55 remains confidential and that parties and participants, including victims participating in the proceedings who attend court sessions,

Interpretation serves to facilitate communication.

Only the original speech is authentic.

shall maintain the confidentiality of the witness's identity and information which may identify him.

Two, use of a pseudonym in all public hearings and public documents.

Three, that any documents that are disclosed to the public must be redacted to protect the witness's identity and information which may identify him as a witness at trial.

Four, that the publicly broadcasted image and voice of Witness 55 be distorted and unrecognizable.

And five, an order that the media and any third parties, in the event that they become aware of the identity of the witness or information which may identify him, are prohibited from disclosing the identity, whereabouts, and information which may identify him or persons related to or associated to him, unless that information has been publicly disclosed by the Tribunal.

In a confidential annex to the motion, the Prosecution made additional submissions in relation to this and requested that the annex remain confidential.

Counsel for Mr. Salim Jamil Ayyash opposed the motion, in filing 2203, "Ayyash Defence response to 'Prosecution motion for protective measures and video-conference link testimony for PRH055,'" filed on the 17th of September, 2015.

In their response, counsel for Mr. Ayyash submitted that the Prosecution failed to justify the need for protective measures and video-conference link. According to Defence counsel, all of the reasons advanced are unsubstantiated and fail under scrutiny. Particularly, they said, or submitted, because Witness 55's evidence concerns an accused, it is in the interest of justice to hear his evidence live in person in Leidschendam, the Netherlands.

The Trial Chamber has previously identified the factors involved in considering applications for protective measures and for testimony via video-conference link. The principles previously identified are applicable to this decision.

The Trial Chamber has carefully considered the Prosecution's submissions, the confidential annex, and the witness statement provided in support of the motion.

[...]

The Trial Chamber, however, does not believe that the protective measures requested are appropriate for this particular witness due to the evidence he is expected to give. In the Trial Chamber's view, protective measures -- those protective measures sought will not

Interpretation serves to facilitate communication.  
Only the original speech is authentic.

effectively protect his identity, but, moreover, his concerns are relatively minor and, in the Chamber's view, they are not adequately supported.

So the request for protective measures in respect of Witness 55 is declined.

In relation to the motion to hear his evidence via video-conference link, the Trial Chamber is satisfied that it is in the interests of justice to hear his testimony via video-conference link from the Beirut office. Testimony in this manner is not exceptional and it preserves the right of the accused to cross-examination, and in our view, Witness 55 has raised sufficient concerns to justify his request to testify by video-conference link.

In addition to the measures requested, the Prosecution also asked the Trial Chamber to maintain the confidential status of Annex A to its motion and the witness statements referenced in the motion. The Trial Chamber is not ordering protective measures for Witness 55 but the annex contains other confidential information. It should therefore remain confidential for the moment. However, the Prosecution is ordered to file a publicly redacted version in due course.

Interpretation serves to facilitate communication.  
Only the original speech is authentic.