

**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: 12 December 2016

Original language: English

Classification: Public

DECISION DENYING PROTECTIVE MEASURES FOR WITNESSES PRH395

(Extract from Official Public Transcript of Hearing on 12 December 2016, page 8, line 25 to page 10, line 7)

On 9th of December, 2016, in filing 2898, the Prosecution filed “Prosecution Urgent Motion for Protective Measures for PRH395,” seeking protective measures to protect the identity of the witness, including that he be referred to by a pseudonym and that publicly broadcast images and voice shall be distorted and unrecognizable.

In support, the Prosecution filed a confidential annex referring to a statement of Prosecution analyst Mr. Gabor Nagy, dated the 9th of December, 2016, supporting the application. The Chamber heard further argument on the application in court today and went into private session, under Rule 133(C), which provides that “the Chamber may hold an in camera proceeding to determine whether to order” the various measures which the Chamber may grant to protect the identity and privacy of a witness or a victim.

Under Rule 96 of the Special Tribunal's Rules of Procedure and Evidence, filings, proceedings, and orders shall be public unless otherwise provided by the Rules or decided by the Chamber. The overriding principle is of public proceedings. Against that, the Chamber must balance measures for the protection of victims and witnesses under Rule 133, under

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which -- under Rule 133(A), the Chamber may “order appropriate measures for the privacy and protection of victims and witnesses, provided that the measures are consistent with the rights of the accused.”

The Trial Chamber has carefully analysed the supporting statement of Mr. Nagy and the submissions of the Prosecution and the Defence of Mr. Salim Jamil Ayyash, who opposed the Prosecution's application.

The Chamber is not satisfied that the measures sought are necessary in this particular instance and denies the Prosecution's application. The Chamber, in reaching this conclusion, has noted that the witness has not expressed any fears for himself and has not actually experienced any situations other than possibly uncomfortable situations. The Chamber is not convinced that that is sufficient to override the principle favouring public proceedings, and for those reasons the Chamber will not grant the order.

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