

**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:** 10 January 2017

**Original language:** English

**Classification:** Public

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**DECISION GRANTING PROSECUTION'S ORAL REQUEST FOR  
RECONSIDERATION OF THE TRIAL CHAMBER'S 09 JANUARY 2017 DECISION  
IN RELATION TO WITNESS PRH711 AND GRANTING PROTECTIVE  
MEASURES FOR THE WITNESS**

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(Extract from Official Public Transcript of Hearing on 10 January 2017, page 33, line 3 to  
page 35, line 14)

The Trial Chamber on the 9th of January, 2017, in filing F2932, "Decision on Video-Conference Link Testimony and Protective Measures for Ogero Witnesses," denied an application submitted by the Prosecution in its filing [...] F2911, "Prosecution Motion for Video-Conference Link Testimony for PRH709 and PRH711 and for Protective Measures for PRH709, PRH710, PRH711, and PRH713," filed on the 16th of December, 2016, with a confidential annex, in respect of the four witnesses.

The Prosecution today in Court made an oral application for the Trial Chamber to reconsider its decision in relation to Witness PRH711 who is scheduled to testify today under Rule 140 of the Special Tribunal's Rules of Procedure and Evidence.

Under that Rule, a Chamber may "proprio motu or at the request of a party reconsider a decision other than a judgement or sentence, if necessary, to avoid injustice."

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In support of the application, the Prosecution led evidence from the witness, Witness 711, which was not in the supporting material to its motion upon which the Trial Chamber based its decision. The witness gave evidence before the Chamber in closed session relating to fears for his safety if his identity is revealed.

The counsel for the Defence cross-examined the witness on these matters.

The Chamber is satisfied that the evidence given by the witness is new information that was not available to the Chamber when it made its decision on the 9th of January, 2017. The issue is whether it should reconsider to avoid an injustice.

Defence counsel have opposed the application, arguing that no injustice has been identified.

The Trial Chamber disagrees. It is convinced that the witness has put before the Trial Chamber, compelling or cogent evidence of both objective matters relating to his fears and his own subjective fears in relation to the safety and comfort of him and his family. The Trial Chamber is also satisfied that “injustice” in Rule 140 should be interpreted in a liberal manner, and the injustice in question here is to allow to -- the injustice would be if a witness would be unable to testify in safety and in comfort. In the Trial Chamber's view, it is very much in the interests of justice that witnesses are able to complete or give their testimony without fear for their safety and the consequences of their testifying.

The Trial Chamber is therefore satisfied that it is in the interests of justice to reconsider the decision it made on the 9th of January, 2017, in relation to Witness 711 and makes the following order in relation to that witness:

One, the identity of Witness PRH711 shall remain confidential, and parties and participants, including victims participating in the proceedings who attend court sessions, shall maintain the confidentiality of the witnesses' identity and information which might identify them. And I interpolate here to add that the Trial Chamber did not reveal the identity of any of the four witnesses in its decision of the 9th of January, 2017.

Two, reference to the witness shall be made only by his pseudonym in all public hearings and public documents.

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

Four, the publicly broadcasted image and voice of the witness shall be distorted and unrecognizable.

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And, five, 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 the identity, whereabouts and information which may identify the witness unless that information has been publicly disclosed by the Tribunal.

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