

**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: 11 January 2017

Original language: English

Classification: Public

**DECISION GRANTING PROSECUTION'S ORAL REQUEST FOR
RECONSIDERATION OF THE TRIAL CHAMBER'S 09 JANUARY 2017 DECISION
IN RELATION TO WITNESS PRH709 AND GRANTING PROTECTIVE
MEASURES FOR THE WITNESS**

(Extract from Official Public Transcript of Hearing on 11 January 2017, page 9, line 10 to
page 12, line 3)

The Trial Chamber, on 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 made an oral application yesterday, on 10th of January, 2017, in respect of Witness 711 for the Chamber to reconsider its decision denying protective measures for that particular witness, and the Trial Chamber heard evidence from the witness and, as a result, reconsidered its decision and granted the witness protective measures.

The Prosecution has today made another application, this time in respect of Witness PRH709, for reconsideration under Rule 140 of the Special Tribunal's Rules of Procedure and

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Evidence, supported by a statement of a Prosecution investigator taken on the 10th of January, 2017, in which the investigator has given further information relating to Witness 709's concerns about his name and, in particular, his face being publicly known in Lebanon.

The Chamber has carefully read the statement of the investigator, and it is evident that [...] the information is new information and was not in the Prosecution's original application filed on the 16th of December, 2016.

The Prosecution counsel have explained that the witness did not wish that information to be provided to the Trial Chamber at that point but now does.

The Defence counsel do not contest either that the information is new nor that the Trial Chamber should reconsider its decision.

The Prosecution has sought either the full protective measures that it originally sought in its application on the 16th of December, or alternatively a mid-way position, as described, of face or image altering, face distortion or image altering.

The Trial Chamber has carefully considered the matter. Under Rule 140, it may “proprio motu or at the request of a party reconsider a decision other than a judgement or sentence, if necessary, to avoid injustice.” The new information the Trial Chamber has now received is information that had the Trial Chamber had it at the time, it would have made a different decision.

The Trial Chamber is of the view that it should reconsider its decision in the interests of justice. The injustice here would be to the interests of justice and not to allow a witness to testify in safety and in comfort.

For these reasons, the Chamber will reconsider its decision of the 9th of January, 2017, in relation to Witness 709.

It makes the following order in relation to that witness:

One, the identity of the Witness PRH709 shall remain confidential, and parties and participants, including victims participating in the proceedings who attend court sessions, shall maintain the confidentiality of the witness's identity and information which might identify him.

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.

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

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.

The Chamber makes one further observation, which has already been made in relation to this particular application. And we urge the Prosecution and the parties in any future applications for protective measures under Rule 133 of the Rules of Procedure and Evidence to exercise particular care in bringing to the Chamber's attention all relevant information that could persuade the Chamber to grant the measures.

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