

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, Registrar

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THE PROSECUTOR

v.

**SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

**DECISION ON PROSECUTION MOTION TO ADMIT UNDER RULE 155
THE STATEMENTS OF 13 WITNESSES IN RELATION TO TELEPHONE
DISTRIBUTION AND SUBSCRIPTION**

Office of the Prosecutor:

Mr Norman Farrell, Mr Graeme Cameron
& Mr Alexander Milne

Victims' Legal Representatives:

Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra

Counsel for Mr Salim Jamil Ayyash:

Mr Eugene O'Sullivan, Mr Emile Aoun &
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Counsel for Mr Mustafa Amine Badreddine:

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Mr Iain Edwards

Counsel for Mr Hassan Habib Merhi:

Mr Mohamed Aouini, Ms Dorothee Le Fraper
du Hellen & Mr Khalil Jad

Counsel for Mr Hussein Hassan Oneissi:

Mr Vincent Courcelle-Labrousse, Mr Yasser
Hassan & Mr Philippe Larochelle

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Guénaël Mettraux &
Mr Geoffrey Roberts



INTRODUCTION

1. Evidence on the use of mobile telephones is one of the key strands in the Prosecution's case against the five Accused. In the consolidated indictment, the Prosecution alleges that five interconnected mobile telephone groups were involved in the assassination of the former Lebanese Prime Minister, Mr Rafik Hariri, in Beirut on 14 February 2005. For ease of reference, the Prosecution refers to each of the mobile telephone groups by a different colour: red, blue, yellow, green and purple.¹ The Prosecution alleges that, to conceal the real reason for their purchase, the SIM cards² used in the mobile telephone groups were either purchased anonymously, subscribed in another person's name or acquired using false identification documents.³

2. The Prosecution seeks to admit into evidence, under Rule 155 of the Special Tribunal's Rules of Procedure and Evidence, sixteen statements by fifteen Witnesses—PRH013, PRH048, PRH083, PRH090, PRH094, PRH100, PRH107, PRH292, PRH381, PRH415, PRH472, PRH493, PRH560, PRH580 and PRH686—in lieu of oral testimony and without cross-examination.⁴ It argues that these are relevant to three of the five groups of telephones, namely the 'blue', 'yellow' and 'red' networks, as well as the prepaid telephone card used to make the false claim of responsibility for the attack of 14 February 2005.⁵

3. The Prosecution also requests leave to amend its witness and exhibit lists filed under Rule 91, by adding Witness 686 to its witness list, and fifteen of the sixteen statements to its exhibit list.⁶

4. Counsel for the Accused, Mr Mustafa Amine Badreddine and Mr Assad Hassan Sabra, responded to the motion.⁷

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F1444, Consolidated indictment, 7 March 2014, paras 14-19; STL-11-01/PT/TC, *Prosecutor v. Ayyash, Badreddine, Oneissi and Sabra*, F1077, Redacted Version of Prosecution's Updated Pre-Trial Brief, dated 23 August 2013, 31 October 2013, para. 6.

² A SIM card, also known as a subscriber identity module, is a smart card that stores data for mobile telephone subscribers. This includes user identity, location and telephone number, network authorisation data, personal security keys, contact lists and stored text messages.

³ F1971, Prosecution Rule 155 Motion for the Admission of Witness Statements in relation to Telephone Distribution and Subscription in Lieu of Oral Testimony, 27 May 2015, para. 21.

⁴ Prosecution motion, para. 1.

⁵ Prosecution motion, para. 4.

⁶ Prosecution motion, paras 2 and 3.

DISCUSSION

A. Amendment of witness and exhibit lists

i) Submissions

5. The Prosecution requests to amend its witness list by adding Witness 686, a former sales representative at the Tripoli branch of a Lebanese mobile telephone distributor, ETS FA Kettaneh (Kettaneh Brothers) SA. The Prosecution submits that, on 8 December 2004, Witness 686 used her own SIM card to test a customer's Alcatel mobile telephone handset. That handset was later used with SIM cards belonging to the 'red network' of telephones.⁸

6. The Prosecution argues that it has good cause for not seeking this amendment earlier, as the witness had left Lebanon shortly after giving a statement to the Lebanese authorities in 2005. She met Prosecution investigators on 22 December 2014 and gave them a statement compliant with Rule 155, which the Prosecution disclosed a month later to the Defence, informing counsel that it intended to call her as a witness.⁹

7. The Prosecution also seeks leave to amend its exhibit list, so that fifteen of the sixteen statements it seeks to tender into evidence can be added to it.¹⁰ It explains that thirteen of these statements contain no new evidence but simply incorporate previous witness statements and make them compliant with the relevant Practice Direction.¹¹ The two remaining statements include limited new evidence: Witness 580 clarifies the geographical location of his business by marking it on a map; and Witness 381 incorporates three of his previous statements, one of which was already on the exhibit list.¹²

⁷ F1996, Badreddine Defence Response to "Prosecution Rule 155 Motion for the Admission of Witness Statements in relation to Telephone Distribution and Subscription in Lieu of Oral Testimony", 10 June 2015; F1997, Sabra Defence Response to "Prosecution Rule 155 Motion for the Admission of Witness Statements in relation to Telephone Distribution and Subscription in Lieu of Oral Testimony", 10 June 2015.

⁸ Prosecution motion, paras 2 and 9.

⁹ Prosecution motion, paras 10-11.

¹⁰ Prosecution motion, paras 3 and 12.

¹¹ STL-PD-2010-02, Practice Direction on the Procedure for Taking Depositions under Rules 123 and 157, and for Taking Witness Statements for Admission in Court under Rule 155, 15 January 2010.

¹² Prosecution motion, para. 15.

8. Counsel for Mr Badreddine do not object to the requested amendments.¹³ Counsel for Mr Sabra take no position on the amendments, though they ask for the motion to be dismissed.¹⁴

ii) Decision

9. The Trial Chamber has previously held that it may, in the interests of justice, allow a party to amend its witness and exhibit lists, but must balance the Prosecution's interest in presenting any available evidence against the rights of an accused person to adequate time and facilities to prepare for trial. The evidence must be *prima facie* relevant and probative, and the Trial Chamber may consider general factors that include: (i) whether the Prosecution has shown good cause for not seeking the amendments at an earlier stage; (ii) the stage of the proceedings; and (iii) whether granting the amendment would result in undue delay.¹⁵

10. The Trial Chamber has carefully reviewed all sixteen witness statements the Prosecution seeks to tender. It considers the evidence of Witness 686 *prima facie* relevant to and probative of the distribution and sale of mobile telephone handsets used with 'red network' SIM cards. The Prosecution has shown good cause for seeking the amendment only now and has disclosed the relevant statement in a timely fashion to the Defence (on 23 January 2015). The Trial Chamber is satisfied that the amendment will not cause undue delay to the proceedings nor prejudice the rights of the Accused. It accordingly allows Witness 686 to be added to the Prosecution's witness list.

11. The Trial Chamber is equally satisfied that the fifteen statements the Prosecution seeks to add to its exhibit list are *prima facie* relevant and probative. All relate to the three areas of the Prosecution case to which the motion relates, namely, the distribution and acquisition of 'blue' and 'yellow' network SIM cards, the distribution and sale of mobile telephone handsets used with 'red network' SIM cards, and the sale of the Telecarte used on 14 February 2005 to telephone news agencies Reuters and Al Jazeera regarding the false claim of responsibility for the attack on Mr Hariri.¹⁶

¹³ Badreddine response, para. 3.

¹⁴ Sabra response, para. 22.

¹⁵ F1820, Decision on the Prosecution Motion for Admission under Rule 155 of Written Statements in Lieu of Oral Testimony relating to 'Red Network' Mobile Telephone Subscriptions, 19 January 2015, para. 5.

¹⁶ Prosecution motion, para. 4.

12. Thirteen of the statements contain no new evidence, and only replace previous statements by the same witnesses that did not comply with the requirements of the Practice Direction. The Trial Chamber considers that the new evidence in the two other statements is very limited and will neither prejudice Defence preparations for trial nor unduly delay the proceedings. The Trial Chamber accordingly allows the fifteen statements to be added to the Prosecution's exhibit list.

B. Admission of the witness statements

13. In earlier decisions, the Trial Chamber determined the procedural safeguards for admitting statements into evidence under Rule 155.¹⁷ These allow it to receive written testimony in lieu of live oral testimony in the courtroom. In particular, a statement must meet the basic requirements for admission into evidence under Rule 149 and, if going to proof of the acts or conduct of the accused, may not be admitted without cross-examination. Those principles are applicable here.

14. The Prosecution submits that the sixteen statements are relevant, probative, reliable and do not address the acts or conduct of the Accused, as charged in the consolidated indictment.¹⁸

i) Named subscribers of 'network' SIM cards—Witnesses 013, 083, 090, 094, 107 and 493

15. Six statements are from Witnesses 013, 083, 090, 094, 107 and 493. They deny purchasing the SIM cards subscribed in their names and point out mistakes in their personal information as listed on the relevant mobile telephone contracts. The Prosecution alleges that their identification documents were used to purchase five 'blue' and one 'yellow' SIM cards.¹⁹

16. Counsel for Mr Badreddine request the Trial Chamber to order the appearance in person of Witnesses 013 and 090 for cross-examination, as counsel has questions about their employment

¹⁷ STL-11-01/PT/TC, F937, Decision on Compliance with the Practice Direction for the Admissibility of Witness Statements under Rule 155, 30 May 2013, para. 13; F1280, First Decision on the Prosecution Motion for Admission of Written Statements Under Rule 155, 20 December 2013, paras 7-14; F1785, Decision on the Prosecution Motion for Admission Under Rule 155 of Written Statements in Lieu of Oral Testimony Relating to Rafik Hariri's Movements and Political Events, 11 December 2014, para. 3.

¹⁸ Prosecution motion, paras 19 and 38-40.

¹⁹ Prosecution motion, para. 21.

which may be relevant to on-going Defence inquiries.²⁰ Counsel for Mr Sabra take no position on the admission of these statements.²¹

17. Despite undertaking to do so,²² and the Trial Chamber's direction for clear organization and cross-referencing to relevant filings and materials,²³ the motion does not mention that the Trial Chamber has already admitted into evidence the mobile telephone contracts in the names of Witnesses 013, 083, 090 and 094.²⁴

18. The Prosecution has not yet sought to tender into evidence the three mobile telephone contracts subscribed in the names of Witness 493 and Witness 107, and does not explain whether it intends to tender them at a later point, or even whether it has them. On 26 April 2006, Witness 493 made a statement to the Lebanese authorities. A note at the end of the statement states that copies of the two mobile telephone contracts subscribed in the witness's name are attached to the statement. They are not annexed.

19. Nevertheless, the Trial Chamber is satisfied of the statements' relevance to the Prosecution's case on telephone networks and of their probative value. The statements are also cumulative to evidence already admitted or declared admissible by the Trial Chamber on purchasing SIM cards.²⁵ They conform to the requirements of the Practice Direction, and can therefore be considered reliable. Furthermore, they go to proof of matters other than the acts and conduct of the Accused. The six statements are accordingly admissible into evidence under Rule 155.

20. However, as counsel for Mr Badreddine have demonstrated that the testimony of Witnesses 013 and 090 may be relevant to their case, the Trial Chamber is satisfied that it is in the interests of justice to allow them to cross-examine these two witnesses.²⁶ The Prosecution must therefore call the

²⁰ Badreddine response, paras 5-6.

²¹ Sabra response, para. 2.

²² Prosecution motion, para. 7.

²³ F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 57.

²⁴ Exhibit P467; Transcript of 22 May 2015, p. 44; See F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 19.

²⁵ See e.g., F1820, Decision on the Prosecution Motion for Admission under Rule 155 of Written Statements in Lieu of Oral Testimony Relating to 'Red Network' Mobile Telephone Subscriptions, 19 January 2015.

²⁶ Badreddine response, paras 5 and 6.

witnesses and, in accordance with Rules 155 (C) and 156, make them available for cross-examination.

ii) Distribution and sale of 'network' SIM cards—Witnesses 100 and 472

21. The Prosecution seeks to tender two statements that provide information and attach business records concerning the sale of SIM cards that were allegedly used in the 'blue' and 'yellow' networks of telephones.²⁷

22. The first statement—by Witness 472, an official representative of the mobile distributor Teleserve—produces business records establishing that Teleserve sold three 'blue' SIM cards in December 2003.²⁸ The Prosecution argues that this statement and records are relevant to proving the origins of the 'blue network'.²⁹

23. In the second statement, Witness 100 establishes the provenance of the mobile telephone contract for a 'yellow' SIM card.³⁰ The Prosecution submits that this contract, with other evidence, will establish an inference that the named subscriber was not the telephone's user, and show that the telephone was used at locations relevant to the surveillance of Mr Hariri in the two months before his assassination.³¹

24. Counsel for Mr Badreddine and Mr Sabra take no position on the admissibility of these two statements.³²

25. The Trial Chamber is satisfied that Witness 100's statement is relevant and probative to the Prosecution's case. The statement is linked to evidence that has already been admitted or deemed admissible regarding the contract for that 'yellow' SIM card for 'Yellow 457'. In its decision of 6 March 2015, the Trial Chamber deemed the contract admissible, but required the Prosecution either to call the witnesses who provide the information proving the provenance of the contract, or to seek

²⁷ Prosecution motion, para. 22.

²⁸ The three 'blue' SIM cards correspond to telephone numbers 3193428 (abbreviated by the Prosecution to 'Blue 428'), 3496742 ('Blue 742'), and 3198940 ('Blue 940').

²⁹ Prosecution motion, para. 23. Although the Prosecution does not specify this, it appears that two of those 'blue' SIM cards were subscribed in Witness 493's name.

³⁰ Mobile telephone number 3345457 ('Yellow 457').

³¹ Prosecution motion, para 24.

³² Badreddine response, para. 3; Sabra response, para. 2.

the admission into evidence of their witness statements.³³ In addition, on 13 March 2015, the Trial Chamber admitted into evidence correspondence from the Lebanese Ministry of Interior to the Special Tribunal's Prosecutor, stating that the biographical information on record for the person in whose name that SIM card was purchased, did not match the biographical information listed on the contract.³⁴ Witness 472's evidence is similarly part of a larger body of evidence related to the 'blue network'.

26. The Trial Chamber considers both statements to be reliable, as they comply with the format of witness statements specified in the Practice Direction. They do not go to proof of the acts or conduct of the Accused. The two statements are accordingly admissible into evidence.

iii) Distribution and sale of 'red network' mobile telephone handsets—Witnesses 292, 381, 415, 560, 580 and 686

27. The Prosecution seeks to tender six statements—by Witnesses 292, 381, 415, 560, 580 and 686—concerning the distribution, sale and importation of mobile telephone handsets that were used with SIM cards as part of the 'red network'.³⁵

28. Counsel for Mr Badreddine take no position on these statements.³⁶ Counsel for Mr Sabra object generally to the admission of these six statements on the basis of relevance, though they make their argument explicit only with regard to the statements of Witnesses 381, 415, 580 and 686.³⁷ They submit that the proposed evidence relates exclusively to tracing the handsets from their import into Lebanon to their sale in Tripoli on 30 December 2004 and the Prosecution does not claim that any of the Accused were involved in this process.³⁸ Counsel for Mr Sabra do not dispute many of the facts the Prosecution seeks to prove through these statements, but have not been consulted by the Prosecution on a statement of agreed facts.³⁹

³³ See F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 52.

³⁴ Exhibit P397; Transcript of 13 March 2015, pp. 10-15; F1774, Prosecution Rule 154 Motion for the Admission of Documents relevant to the Acquisition of "Network" Mobile Phones and Handsets, paras 12 and 16; F1775, Prosecution Rule 154 Motion for the Admission of 39 Mobile Phone Contracts, 2 December 2014, paras 69-71.

³⁵ Prosecution motion, paras 25, 29 and 34.

³⁶ Badreddine response, para. 3.

³⁷ Sabra response, paras 3 and 7.

³⁸ Sabra response, paras 10-11.

³⁹ Sabra response, para 13.

A Sony Ericsson handset

29. Witness 560 is the former managing director of Itsalat Company, an authorised distributor of Sony Ericsson mobile telephone handsets in Lebanon. He produces a packing list dated 25 August 2004, which traces the shipment of a mobile handset from the United Arab Emirates to Itsalat International Company in Lebanon.⁴⁰ The Prosecution alleges that this handset was used with three ‘red network’ SIM cards in the six weeks leading to Mr Hariri’s assassination.⁴¹

30. Witness 292’s statement is relevant to the handset relating to Witness 560’s evidence. Witness 292 purchased mobile telephone handsets from Witness 560—including, the Prosecution alleges, the Sony Ericsson bearing the same IMEI—and sold them to other dealers. The Prosecution submits that Witness 292’s statement, with the Itsalat packing list and the call sequence tables for ‘red network’ telephones the Prosecution sought to tender into evidence, proves that the handset was purchased shortly before its use with three ‘red network’ SIM cards.⁴²

31. The Trial Chamber has already admitted the Itsalat packing list into evidence,⁴³ but in its decision of 6 March 2015, requested the Prosecution either to call to testify the witness who provides the information proving its provenance—in this case, Witness 560—or to seek the admission into evidence of his witness statements.⁴⁴ Both Witnesses 560 and 292’s statements are relevant and probative of the movement of the Sony Ericsson handset. The statements are also cumulative to other evidence regarding this handset, and bear sufficient indicia of reliability. The Trial Chamber accordingly considers the two statements to be admissible.

⁴⁰ Prosecution motion, para. 26; F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 9. Every mobile telephone handset has a unique International Mobile Equipment Identity (IMEI) number. This mobile handset bears the IMEI number 351262006780868.

⁴¹ Prosecution motion, para. 25.

⁴² Prosecution motion, paras 27-28; F1831 Prosecution Motion for the Admission of Red Network-Related Call Sequence Tables and Related Statement, 28 January 2015. The Trial Chamber deferred its decision on the admissibility of these and other network-related call sequence tables until at least one witness has testified about the provenance of the underlying call data records and the production of the call sequence tables: F1937, Decision on Five Prosecution Motions on Call Sequence Tables and Eight Witness Statements and on the Legality of the Transfer of Call Data Records to UNIIC and STL’s Prosecution, 6 May 2015.

⁴³ Exhibit P403; Transcript of 13 March 2015, p. 29.

⁴⁴ F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 48.

Four Alcatel handsets

32. Witnesses 415, 686 and 580 each provided a statement relevant to the import, distribution and sale of four Alcatel mobile telephone handsets which were allegedly later used with 'red network' SIM cards.⁴⁵ The Prosecution argues that these statements, in conjunction with the statement of deceased Witness PRH249 (Mr Nawar Dona),⁴⁶ and an Alcatel packing list/delivery note,⁴⁷ trace how the four handsets were imported into Lebanon on 22 September 2004 by Eastern Distributors and Forwarding Corporation SAL (EDFC) from Itsalat Company, sold by EDFC to Mr Dona in December 2004, and sold in turn by him to an unidentified male on 30 December 2004.⁴⁸ More specifically:

- Witness 415 was an employee of ETS F.A. Kettaneh (Kettaneh Brothers) SA, the sister company of EDFC. The mobile division of EDFC was responsible for purchasing and distributing Alcatel handsets and accessories. The witness also produces business records establishing that Kettaneh-Tripoli sold Alcatel and Siemens handsets to Mr Dona, who operated the Echo Cell mobile telephone store in Tripoli;⁴⁹
- Witness 686 was a sales representative at the Kettaneh branch in Tripoli. She personally sold Alcatel handsets to Mr Dona during the New Year's period of December 2004 to January 2005. On 8 December 2004, she used her own SIM card to test one of the four handsets that was subsequently used with three SIM cards belonging to the 'red network' of telephones;⁵⁰ and

⁴⁵ The IMEI numbers of the handsets are 35418400006252, 35418400006727, 35418400007810 and 3541800010594.

⁴⁶ At footnote 31 of its motion, the Prosecution states that Mr Dona's statements are the subject of a pending motion before the Trial Chamber. However, the Trial Chamber had by then already issued a decision finding his statements admissible, and admitted them into evidence as Exhibit P465. See Transcript of 22 May 2015, pp. 36-37; F1953, Decision on Prosecution Motion to Admit the Statements of Deceased Witnesses PRH249 and PRH093, 18 May 2015.

⁴⁷ Exhibit P402; Transcript of 13 March 2015, pp. 23-24. At paragraph 9 of its decision of 6 March 2015, the Trial Chamber clarified that this document, despite being qualified as a 'delivery note' in the relevant Prosecution motion, was actually a packing list.

⁴⁸ Prosecution motion, para. 31.

⁴⁹ Prosecution motion, paras 31-32.

⁵⁰ Prosecution motion, paras 2, 9 and 31.

- Witness 580 is the owner of Echo Cell. He states that Mr Dona operated his store in December 2004 and January 2005. He also provides the store's address and marks its approximate location on two maps.⁵¹

33. The Trial Chamber disagrees with counsel for Mr Sabra's submissions that the statements of Witnesses 415, 580 and 686 are irrelevant. The statements provide evidence on the movement of the four Alcatel handsets until they were used as part of the 'red network'. Defence counsel also overlook that these statements are linked to other evidence that the Trial Chamber has already admitted or declared admissible. Counsel for Mr Sabra did not respond to any of the three motions the Prosecution filed under Rule 154 in December 2014 on the admission of mobile telephone documents.⁵² Some of the statements in the present decision are connected to the documents the Prosecution sought to tender in December 2014.⁵³

34. The three statements conform to the requirements of the Practice Direction and Rule 155, and do not go to proof of acts or conduct of the Accused. They are accordingly admissible into evidence.

Two Nokia handsets

35. The Prosecution also seeks to tender a statement by Witness 381, who was the general manager of Nokia International Levant in Lebanon in 2004. He produces records showing that two Nokia handsets⁵⁴—which the Prosecution alleges were later used exclusively with 'red network' SIM cards—were sold to a company in Syria, and their warranty period started on 23 November 2004.⁵⁵ The Prosecution has previously stated that it has no information on how these two handsets later made their way from Syria into Lebanon.⁵⁶

⁵¹ Prosecution motion, para. 31.

⁵² F1774, Prosecution Rule 154 Motion for the Admission of Documents relevant to the Acquisition of "Network" Mobile Phones and Handsets, 2 December 2014; F1775, Prosecution Rule 154 Motion for the Admission of 39 Mobile Phone Contracts, 2 December 2014; F1776, Prosecution Rule 154 Motion for the Admission of 99 Mobile Phone Business Records, 3 December 2014.

⁵³ F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 2.

⁵⁴ With IMEI numbers 35504700590027 and 35504700590058.

⁵⁵ Prosecution motion, para. 35.

⁵⁶ Transcript of 13 March 2015, p. 28.

36. Witness 381's statement and these business records are cumulative to evidence the Trial Chamber has already admitted, namely the basic warranty checks for these two handsets.⁵⁷ The Trial Chamber finds his statement to be relevant, probative and reliable. For the same reasons as for Witnesses 415, 580 and 686, the Trial Chamber dismisses the Defence arguments on relevance. Witness 381's statement does not go to proof of the acts or conduct of the Accused and is therefore admissible into evidence.

iv) Sale of Telecarte used on 14 February 2005—Witness 048

37. The final two statements the Prosecution seeks to tender into evidence are by Witness 048, who was a sales representative for Ogero, the main operator of the fixed telecommunications network in Lebanon. On 10 February 2005, he sold 10 prepaid telephone cards known as 'Telecartes'. The Prosecution submits that one of these cards was used four days later to call Reuters and Al Jazeera to make a false claim of responsibility following the attack of 14 February 2005.⁵⁸

38. Counsel for Mr Sabra argue that these two statements are at best remotely relevant and at worst unnecessary.⁵⁹ They list a number of facts the Prosecution is attempting to prove through these statements, with which they do not take issue.⁶⁰

39. The Trial Chamber rejects the arguments on relevance made by counsel for Mr Sabra. Witness 048's statements are relevant and probative, particularly with regard to paragraph 44 of the consolidated indictment, which describes how three of the Accused allegedly coordinated and communicated with each other in relation to the false claim of responsibility.⁶¹ The statements also bear the necessary indicia of reliability and do not go to proof of the acts or conduct of the Accused. They may accordingly be admitted into evidence.

⁵⁷ Exhibit P401; Transcript of 13 March 2015, p. 23.

⁵⁸ Prosecution motion, paras 36-37.

⁵⁹ Sabra response, paras 17 and 20.

⁶⁰ Sabra response, para. 18.

⁶¹ Consolidated indictment, para. 44.

GENERAL REMARKS

40. The Trial Chamber reminds the Parties, again, to exercise care, precision and diligence in preparing and filing submissions,⁶² and to include the most up-to-date information on admitted evidence and relevant decisions.

41. With regard to counsel for Mr Sabra's submissions that they would have agreed to many of the facts the Prosecution is attempting to prove through its motion, the Trial Chamber strongly encourages the Parties to consult with each other on agreed facts, with a view to ensuring judicial economy and efficiency.

CONFIDENTIALITY

42. Because they contain confidential witness information, the Prosecution seeks to maintain the confidential status of the annexes to its motion.⁶³ The Trial Chamber reiterates the public nature of these proceedings and orders the Prosecution either to file a public redacted version of the annexes or have them reclassified as public.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

GRANTS the Prosecution leave to amend its witness list by adding Witness PRH686;

GRANTS the Prosecution leave to amend its exhibit list by adding the fifteen statements listed at Annex B of its motion;

DECLARES admissible under Rule 155 the statements by Witnesses PRH048, PRH083, PRH094, PRH100, PRH107, PRH292, PRH381, PRH415, PRH472, PRH493, PRH560, PRH580 and PRH686;

⁶² For example, specifically, avoiding the interchangeable use of the terms 'SIM cards' and 'telephones', and discrepancies in the names of corporate entities; *see* F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, paras 57-59.

⁶³ Prosecution motion, para. 43; In an email to the Trial Chamber Senior Legal Officer dated 11 June 2015, the Prosecution acknowledged that it had, by mistake, at paragraph 43 of its motion, asked for the motion's classification to be maintained as confidential.

DECLARES admissible under Rule 155 (C) the statements of Witnesses PRH013 and PRH090 and requires the Prosecution to make them available for cross-examination;

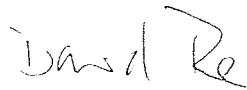
DECIDES that it will, at a suitable stage in the proceedings, formally admit the statements into evidence; and

ORDERS the Prosecution to file a public redacted version of the annexes to its motion or have them reclassified as public.

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

Leidschendam,
 The Netherlands

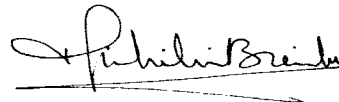
30 June 2015



 Judge David Re, Presiding



 Judge Janet Nosworthy



 Judge Micheline Braidy

