

**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: 15 July 2015

Original language: English

Classification: Public

Decision Granting Prosecution's Request to Add the Statements of Witnesses PRH230, PRH308, PRH313, PRH371, and PRH458 to its Rule 91 Exhibit List

(Extract from Official Public Transcript of Hearing on 15 July 2015, page 88, line 17 to page 91, line 2)

On the 30th of June, 2015, the Prosecution filed a motion seeking to amend its exhibit list filed under Rule of the Special Tribunal's Rules of Procedure and Evidence to add five statements by five witnesses - Witnesses PRH230, 308, 313, 371, and 458. These are Prosecution analysts and the statements describe how they produced call sequence tables and short message service, or SMS, call sequence tables that will be the subject of future Prosecution motions for admission into evidence. The Prosecution motion was filing F2033 entitled: Prosecution Rule 91 submission for five witness statements on the production of call sequence tables and SMS call sequence tables.

No Defence counsel responded to the motion.

The Prosecution submits that the statements are relevant to and probative of the reliability of the call sequence tables and SMS call sequence tables. The statements describe the source material, such as call data records, and the methodology used by the analysts in creating these call sequence tables. They also describe any notable features of the call data

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records or SMS content they observed, such as when a search of the database yielded no results.

The Prosecution submits that the statements contain all the necessary indicia of reliability and conform to the requirements of the relevant Practice Direction on taking witness statements. The Prosecution disclosed the statements to the Defence at the latest on the 6th of February, 2015.

Furthermore, the Prosecution argues that there is good cause to seek the amendment now because four of the statements consolidate or update previous statements covering the same subject matter which were already on the exhibit list and disclosed to the Defence. The remaining statements described the production of recent call sequence tables. It was signed, that was, the last statement was signed on the 15th of May, 2015, and disclosed to the Defence the same day. Moreover, this statement is merely an addendum to the witness's statement which is already on the Prosecution's exhibit list. Therefore, according to the Prosecution, adding these statements to the exhibit list should not unduly delay Defence preparations for trial.

Finally, the Prosecution submits that it sought this amendment in response to the Trial Chamber's decision of 6th of May, 2015, which ordered the Prosecution to lead the evidence of Witness 308 viva voce, or live, and to make the analysts responsible for the production of call sequence tables -- to make them available for cross-examination. The Prosecution submits that allowing this amendment would be in the interests of justice for a more comprehensive examination-in-chief and cross-examination of these witnesses.

As Witness 308 is scheduled to testify on the 20th of July, 2015, the Prosecution requested an expedited schedule for filing responses to its motion.

The Trial Chamber, having reviewed the statements, finds them *prima facie* relevant and probative. The Trial Chamber is of the view that the statements can assist the Trial Chamber in determining the reliability of the call sequence tables. The statements comply with the Practice Direction and contain sufficient indicia of reliability to add to the exhibit list. And especially considering the motion was unopposed and the Defence have had the statements since the 6th of February, 2015, the addition of the statements to the Prosecution's exhibit list will neither delay the proceedings nor prejudice Defence preparations for trial. The Trial Chamber reiterates that adding these to the exhibit list is separate from admitting them

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into evidence and the weight the Trial Chamber may ultimately give to them in assessing them at a later stage.

Having found that it is in the interests of justice to do so, the Trial Chamber grants the Prosecution leave to amend its exhibit list as requested.

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