

**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:** 18 November 2015

**Original language:** English

**Classification:** Public

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**TRIAL CHAMBER'S INVITATION TO THE SABRA DEFENCE TO FILE AN  
UPDATED PRE-TRIAL BRIEF**

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(Extract from Official Public Transcript of Hearing on 18 November 2015, page 50, line 9 to  
page 51, line 12)

[Y]ou filed on the 5th of September, 2013, in filing – [...] F1092, which updated your pre-trial brief of the 8th of January, 2013, filing F0632, which was filed pursuant to the Pre-Trial Judge's orders under Rule 91(I) of the Rules of Procedure and Evidence.

Now, the Chamber has considered this and we're going to [...] invite you to file an update in relation to the matters which you have been attempting to elicit through these particular witnesses. And most particularly, the Chamber is concerned in what your case theory is if you are putting a positive case as opposed to the Prosecution case.

So we understand the role of Defence counsel. You can simply challenge the evidence, put the Prosecution to strict proof, do nothing and say at the end of the Prosecution case: Well, you have proved nothing, Mr. Ayyash should walk free or should be acquitted. But it appears to the Chamber that you are putting a positive case, as you're entitled to do, and of course you have no evidentiary burden or no onus of proof to do so, to prove anything, but

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you are putting a case – a positive case to the Chamber that -- casting strong doubt upon parts of the -- parts of the Prosecution case against Mr. Ayyash -- I'm sorry, Mr. Sabra.

To that end, the Chamber would be greatly assisted if you could give us an outline of where you're going, what your theory is, which would allow us to follow what you're doing. The difficulty is you have so many documents and so many extracts from witness statements and call sequence tables and call data records that, without some summary overview to give us context, we are, in effect, swimming in a mass of documents.

So we're giving you an invitation to file an updated pre-trial brief at your convenience.

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