

**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: 12 January 2016

Original language: English

Classification: Public

**DECISION DENYING SABRA DEFENCE REQUEST FOR RECONSIDERATION
OF THE TRIAL CHAMBER'S DECISION OF 10 JULY 2015**

(Extract from Official Public Transcript of Hearing on 12 January 2016, page 95, line 12 to
page 97, line 9)

The Trial Chamber's decision to reconsider is as follows.

Turning to the decision of 10 July 2015, the wording of the decision is clear. The Sabra Defence's initial motion was dismissed because counsel for Mr. Sabra have not demonstrated why the full contact list is material to their preparation under Rule 110(B), or how it could be exculpatory under Rule 113. The Defence's argument that, provided that Witness 430's entire contact list contains numbers that it considers relevant will allow it to ask questions during their cross-examination of Witness 486, does not constitute new facts meriting reconsideration of the decision of the 10th of July, 2015, under Rule 140. Neither is the argument that it is not apparent from the list of remaining Prosecution witnesses which other witness on its list might be able to attribute some of these numbers.

Further, the Trial Chamber noted in its decision that it would order the Prosecution to disclose to the Sabra Defence information from Witness 430's contact list in relation to any specific numbers that it would send to the Prosecution. The Trial Chamber notes that the

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Sabra Defence did not take advantage of the Trial Chamber's invitation and still has not identified any specified numbers or names of individuals that it considers relevant to their preparation in any subsequent requests to the Prosecution.

The Trial Chamber considers that the Sabra Defence, in its substantive submissions, did not adduce any new facts justifying reconsideration of the decision on its merits. The Trial Chamber is thus not convinced that the decision of 10th of July, 2015, has resulted in an injustice or has caused any real prejudice to Mr. Sabra and his right to a fair trial. It will not reconsider the decision.

With respect to the issue of disclosure of the full telephone contact list, the Trial Chamber observes that Witness 430 did not object to the full list being disclosed to the Defence, as emphasized by the Sabra Defence in its motion. However, this does not mean he does not consent to its disclosure. The Trial Chamber on the basis of the information provided does not know. The Trial Chamber therefore instructs the Prosecution to approach Witness 430 and seek his consent as to whether he consents for the Prosecution to disclose to the Sabra Defence further contacts from his mobile telephone contact list.

At page 95, starting at [...] line 8, I make the following correction:

However, this does not mean that he does consent to its disclosure. The Trial Chamber on the basis of the information provided does not know. The Trial Chamber therefore instructs the Prosecution to approach Witness 430 and seek his consent for the Prosecution to disclose to the Sabra Defence further contacts from his mobile telephone list.

[...]

Just in that last line it should just be to seek consent as to whether he consents for the Prosecution to disclose to the Sabra Defence further contacts.

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