

**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: 4 May 2016

Original language: English

Classification: Public

DECISION IN RELATION TO THE ADMISSIBILITY OF WITNESS PRH705'S STATEMENTS

(Extract from Official Public Transcript of Hearing on 4 May 2016, page 21, line 21 to page 24, line 13)

The Prosecution seeks the admission into evidence of four witness statements signed by Witness PRH705. They did so in a motion filed on the 18th of April, 2016, filing F2553, “Prosecution motion for the admission of witness statements signed by Witness PRH705.”

The witness is a representative of Touch, one of the two Lebanese mobile telecommunications service providers, through whose evidence the Prosecution seeks to connect the accused to relevant events pleaded in the consolidated indictment.

The Prosecution submits that the statements should be admissible in their entirety under Rule 156 of the Special Tribunal's Rules of Procedure and Evidence. In the alternative, it requests the Trial Chamber to admit the following paragraphs of the individual statements:

a) in a statement of 16th November 2015, paragraphs 1 to 20, 23 to 24, 27 to 30, 34 to 50, 55, 57, 59 to 61, 64 to 65, 67 to 74, 76 to 81, 103 to 106, 112 to 114, 116, 126 to 131, 134 to 138, 147 to 148, 156, 160 to 161, 163, 179, 181, 196 to 197, 200, 202, 206, 214, 230, 242,

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249 to 258, 260 to 262, 263 to 291, 294, 300 to 308, 310, 312 to 326, 327 to 337, 339 to 347, 348 to 356;

b) in a statement of the 16th of December, 2015, paragraphs 1 to 13, and 16 to 26;

c) a statement of the 3rd of February, 2016, paragraphs 1 through 15; and

d) in a statement of the 26th of February, 2016, paragraphs 1 to 11, 17, and 19.

[...]

Counsel for the accused Mr. Salim Jamil Ayyash, Mr. Mustafa Amine Badreddine, and Mr. Assad Hassan Sabra responded to the motion opposing it. The Defence of Mr. Hussein Hassan Oneissi and Mr. Hassan Habib Merhi did not respond. At the Trial Chamber's direction, the Prosecution replied on the 2nd of May, 2016, specifically addressing paragraphs 16 to 19 of the Sabra Defence response. In its reply, the Prosecution expanded its list of proposed paragraphs to include paragraphs 288 to 291 and paragraphs 322 to 326 of the witness's statement of the 16th of November, 2015, which I've already included in A) above.

The Defence did not sur-reply. The Trial Chamber notes the documents contained in Annexes 7, 9, and 11 to the statement of the 16th of December, 2015, are already in evidence, admitted on the 22nd of May, 2015, as Exhibit P467. They were tendered by the Prosecution on the 2nd of December, 2014, in filing F1775, "Prosecution Rule 154 motion for the admission of 39 mobile phone contracts."

Having considered the submissions, the Trial Chamber finds that it is not necessary to admit the entirety of all four statements, and it is satisfied that specified paragraphs and the annexes to the witness's statements are relevant to the case as pleaded in the consolidated indictment.

But before deciding whether the information in the paragraphs contain the necessary indicia of reliability to make them prime facie reliable and hence providing the necessary probative value which would make them admissible into evidence, the Trial Chamber requires further evidence from the witness as to the provenance of the information contained in these paragraphs.

Therefore, subject to the Prosecution establishing the provenance of the documents annexed to the statements and any necessary further legal submissions from the parties, the Trial Chamber:

One, denies the Prosecution motion to admit 1 into evidence in their entirety of the four witness statements;

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Two, declares admissible under Rule 155(C) or Rule 156 – but subject to receiving further evidence, and, if necessary, further submissions, as to their reliability and probative value - the paragraphs of the witness statements and the annexes which are referred to above in a, b, c, and d, and the annexes, with the exception of Annexes 7, 9, and 11;

Three, orders the parties, if they have not done so, to file public redacted versions of their submissions – [...] and any annexes or to have them reclassified as public.

A written decision with full reasons will be issued as soon as possible.

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