

**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: 27 September 2016

Original language: English

Classification: Public

**DECISION ON THE ADMISSIBILITY OF WITNESS PRH371'S STATEMENT OF 23
SEPTEMBER 2016 PURSUANT TO RULE 155**

(Extract from Official Public Transcript of Hearing on 27 September 2016, page 28, line 21 to
page 30, line 14)

The Chamber will make the following ruling in relation to the “Prosecution Motion for the Admission of the Atlas and Related Witness Statement,” filed the 23rd of September 2016 in filing F2734.

In that motion, the Prosecution asked the Trial Chamber to grant leave to add an atlas of 899 pages to the Prosecution's exhibit list, as set out in Annex A to the motion, and admit into evidence the atlas and the statement of Ms. Habraken, that's Helena Habraken, as detailed in Annex B of the motion.

The Trial Chamber has shortened the time for responses to court today, and the Defence of Mr. Ayyash and Mr. Oneissi opposed the Prosecution motion.

The atlas was disclosed to Defence counsel in September 2015. The Chamber is satisfied that good cause exists to add the atlas to the exhibit list, notwithstanding the late application which is understandable given that Ms. Habraken was put on the witness list to testify, I think it was, only last week. There is no need to add Ms. Habraken's statement of the

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23rd of September to the exhibit list in line with the Chamber's decision F2282 of the 21st of October 2015, "Decision on Prosecution Motion to Admit the Statements of Witnesses PRH505 and PRH703," at paragraph 17 we reiterated:

"... the Trial Chamber previously held that a witness statement does not necessarily need to be on a party's exhibit list for admission into evidence as long as the witness appears on the party's witness list. The substantial point is to ensure that the opposing party has notice of the intended evidence. If the other parties have notice of the scope of the witness's evidence, the Trial Chamber does not consider that every statement needs to appear on the calling party's exhibit list."

Turning to the second part of the motion, that is for the admission into evidence of the atlas and the statement. The Trial Chamber considers that the atlas and its supporting statement constitute demonstrative evidence which will assist the Trial Chamber and the parties to visualize and hence understand the complex telecommunications evidence which is presented in this trial.

This demonstrative evidence is relevant and probative and no application was made under Rule 149(D) to exclude it on the basis that "its probative value is substantially outweighed by the need to ensure a fair trial."

Defence counsel have made a point in relation to late disclosure of statements. The Trial Chamber sympathizes with this.

We urge the Prosecution to ensure that more timely motions are filed. Although, in the circumstances the Trial Chamber understands that the witness was called to testify at fairly late notice which explains, in our view, the late disclosure of the new witness statement.

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