

THE TRIAL CHAMBER**SPECIAL TRIBUNAL FOR LEBANON**

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 May 2017

Original language: English

Classification: Public

THE PROSECUTOR

v.

**SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

**Public Redacted Version of 'DECISION ON PROSECUTION MOTION TO ADMIT
TWO WITNESS STATEMENTS AND THREE DOCUMENTS RELATED TO
GENERAL TELEPHONE EVIDENCE' dated 12 May 2017**

Office of the Prosecutor:
Mr Norman Farrell & Mr Alexander Milne

**Legal Representatives of
Participating Victims:**
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Mair

Counsel for Mr Hassan Habib Merhi:
Mr Mohamed Aouini, Ms Dorothee Le Fraper du
Hellen & Mr Jad Khalil

Counsel for Mr Hussein Hassan Oneissi:
Mr Vincent Courcelle-Labrousse, Mr Yasser
Hassan & Ms Natalie von Wistinghausen

Counsel for Mr Assad Hassan Sabra:
Mr David Young & Mr Geoffrey Roberts



INTRODUCTION

1. The amended consolidated indictment pleads that five interconnected mobile telephone groups were involved in the attack on the former Lebanese Prime Minister, Mr Rafik Hariri, and others in Beirut, on 14 February 2005.¹ The Prosecution ‘colour-coded’ each group—as the ‘red’, ‘green’, ‘blue’, ‘yellow’ networks, and a group of ‘purple phones’.² The Trial Chamber admitted into evidence call sequence tables of calls allegedly made by the four Accused, Mr Salim Jamil Ayyash, Mr Hassan Habib Merhi, Mr Hussein Hassan Oneissi and Mr Assad Hassan Sabra, and a pleaded co-conspirator, Mr Mustafa Amine Badreddine, allegedly involved in Mr Hariri’s assassination.³ Call sequence tables are chronological sequences of calls relating to a particular, or ‘target’, telephone number over a specified period of time.⁴

2. These telephone numbers include ‘Purple 018’, which is one of a group of three ‘purple’ telephone numbers that the Prosecution pleads were used to coordinate a false claim of responsibility for the attack of 14 February 2005. The Prosecution attributes ‘Purple 018’ to Mr Sabra.⁵

3. Prosecution analyst, Mr Andrew Donaldson (Witness PRH230), prepared attribution reports examining evidence regarding the attribution of one or more telephone numbers to each one of the Accused and to Mr Badreddine.

4. The Prosecution seeks the admission, under Rules 154 and 155 of the Special Tribunal’s Rules of Procedure and Evidence, of three documents and two statements of Witnesses PRH697 and Prosecution analyst, Mr Christian Carnus (Witness PRH377). The documents and the witness statements relate to the attribution to the Accused, Mr Ayyash and Mr Merhi, and to the former Accused, Mr Badreddine of specified mobile telephone numbers and to the attribution of other telephone numbers in contact with those numbers.⁶

¹ F2720, Amended consolidated indictment, 12 July 2016, para. 14.

² Amended consolidated indictment, para. 15. A network is defined as ‘a group of telephones with a high frequency of contact between the phones within that group’. See amended consolidated indictment, para. 14.

³ F2797, Decision on Four Prosecution Motions on Call Sequence Tables related to Salim Jamil Ayyash, Hassan Habib Merhi, Assad Hassan Sabra, Mustafa Amine Badreddine, and Five Witness Statements, 31 October 2016.

⁴ F1937, Decision on Five Prosecution Motions on Call Sequence Tables and Eight Witness Statements and on the Legality of the Transfer of Call Data Records to UNIHC and STL’s Prosecution, 6 May 2015, para. 2.

⁵ Amended consolidated indictment, para. 15 (e); Prosecution’s updated pre-trial brief, dated 23 August 2013, para. 55.

⁶ F3052, Prosecution Motion to Admit Two Witness Statements pursuant to Rule 155 and Three Documentary Exhibits Pursuant to Rule 154, All Related to General Phone Evidence, 28 March 2017.

5. The Prosecution seeks to admit into evidence three documents, listed in Annex A to the motion:

- a) a set of letters that demonstrate that the personal details in the subscriber records for the mobile telephone numbers ‘Green 300’, ‘Green 071’ and ‘Green 023’—attributed to Mr Ayyash, Mr Merhi and Mr Badreddine—do not exist in the records of the Lebanese Directorate General of Civil Status, under the Ministry of Interior and Municipalities;⁷ the Prosecution obtained this information in response to a request for assistance sent to the Government of the Lebanese Republic;⁸
- b) the decoded content of eight SMS (Short Message Service) messages sent or received by the telephone number ‘Purple 018’; one SMS contains the name ‘Sado’, which may be a diminutive of ‘Assad’—the given name of Mr Sabra;⁹ the Prosecution obtained this information in response to a request for assistance;¹⁰ and
- c) a list of assigned country telephone dialing codes downloaded from the website of the International Telecommunication Union.¹¹

6. The documents in category (c) are incapable of dispute and should be admitted into evidence. They are relevant and have some probative value.

SUBMISSIONS

Prosecution submissions

7. The documents are relevant, probative and reliable, as detailed in Annex A to the Prosecution motion, since they assist in demonstrating: (i) that the names of untraceable persons were used in subscriber records for ‘green network’ phone numbers attributed to some of the Accused; (ii) that the Accused, Mr Sabra, was the user of the mobile telephone number ‘Purple 018’; and (iii) the international dialing codes of various telephone numbers that were in contact with telephone numbers attributed to Mr Ayyash and Mr Oneissi.¹² The probative value of the documents is not outweighed by any prejudicial effect.¹³ The

⁷ Prosecution motion, para. 8 (i).

⁸ Prosecution motion, Annex C, Item 1.

⁹ Prosecution motion, para. 8 (ii).

¹⁰ Prosecution motion, Annex C, Item 2.

¹¹ Prosecution motion, Annex A, Item 3.

¹² Prosecution motion, para. 3.

¹³ Prosecution motion, para 10, referring to F1308, Decision on Prosecution’s Motion to Admit into Evidence Photographs, Videos, Maps, and 3-D Models, 13 January 2014 , para. 6.

documents have been disclosed to the Defence. The documents are also relevant because Mr Donaldson relies on them in his attribution reports related to Mr Ayyash, Mr Merhi, Mr Sabra and Mr Oneissi.¹⁴

8. Witness PRH697 states that he and a relative are acquainted with Mr Ayyash. He says that his relative used the number ending in [REDACTED] and that the number ending in [REDACTED] is his own number. The telephone number ending in [REDACTED] was in contact with landlines ending in 696 and 851, and the non-network private mobile telephone (PMP) numbers 165, PMP 935 and PMP 091 during the time frame in which the Prosecution attributes these numbers to Mr Ayyash. The telephone number ending in [REDACTED] was in contact with landline ending in 696 during the same attribution period.¹⁵

9. Every mobile telephone handset has a unique International Mobile Equipment Identity (IMEI) number. The Prosecution attributes mobile numbers 'Green 300', 'Green 071' and 'Green 023' to the Accused, Mr Ayyash and Mr Merhi, and to the former Accused, Mr Badreddine. The statement of Mr Carnus assists in demonstrating that mobile telephone numbers 'Green 300', 'Green 071' and 'Green 023' each used one handset (or IMEI) during their respective attribution periods. The statement also alleges that each IMEI was not used with any other telephone number in Lebanon between 1 September 2004 and 31 December 2007. It also assists in demonstrating that 'Red 741' used two IMEIs during its attribution period—14 January 2005 to 14 February 2005—and these two IMEIs were only used with two other 'red' telephone numbers between 1 September 2004 and 31 December 2007. This is relevant to the Prosecution case in that both the 'red' and 'green' networks were covert networks.¹⁶

10. The statements do not go to the acts and conduct of the accused as charged in the amended consolidated indictment and both statements contain the necessary indicia of reliability, as required by Rule 155.¹⁷ The statements fulfil the requirements under Rule 155 (B) of signatures and noting the date, time, place and persons present during the interview.¹⁸

¹⁴ Prosecution motion, para. 10.

¹⁵ Prosecution motion, paras 11-12 and Annex B, Item 1.

¹⁶ Prosecution motion, paras 13-14 and Annex B, Item 2.

¹⁷ Rule 155 provides for the admission into evidence of written statements in lieu of oral testimony.

¹⁸ Rule 155 (B) provides that, as a general rule, the statement must have been signed by the person who records and conducts the questioning and by the person who is questioned and his counsel, if present, as well as, where applicable, the Prosecutor or the judge who is present. The record shall note the date, time and place of, and all persons present during, the questioning. If, in exceptional circumstances, the person has not signed the record, reasons shall be noted.

11. The statement of Witness 697— a transcript of an audio recorded interview—departs from the technical requirements of Rule 155 and the Practice Direction.¹⁹ The witness was not provided with a copy of Rules 60 *bis* and 152. The statement is nevertheless reliable as it fulfils almost all of the requirements of Rule 155, and the Chamber has previously held that ‘a witness statement may be admitted into evidence, despite minor or inconsequential breach of the Practice Direction if it does not affect that statement’s reliability.’²⁰

12. The documents attached to the transcript of the interview do not contain a copy of Witness 697’s identity card. However, a copy of the identity card is not required under Rule 155 and the Practice Direction, which state that the identity of the witness is verified with a valid identifying document, if possible.²¹ The interview was conducted at the United States Department of Justice. The US authorities facilitated the interview in response to a request for assistance. Without specifying whether Witness 697’s identity was verified, the Prosecution explained that before entering the building for an interview in a case where the charges include terrorism, US Department of Justice officials would confirm the identification of the witness. The statement of Witness 697 is therefore reliable.²²

13. Both witnesses are on the Prosecution’s witness list. The Defence has received adequate notice of the evidence. Admitting the statements would lead to an efficient use of the Trial Chamber’s time. There is no overriding public interest for the evidence to be presented orally. The prejudicial effect of the evidence, if any, does not outweigh its probative value. The interests of justice and a fair and expeditious trial warrant the admission of the witness statement without cross-examination under Rule 155 (C); the Defence can explore the attribution process with Mr Donaldson.²³

14. The Prosecution also seeks leave to amend its Rule 91 exhibit list by adding one document, listed in Annex D to the motion, containing the decoded SMS content of eight SMS messages sent or received by the telephone number ‘Purple 018’. The Prosecution obtained this document from the Government of the Lebanese Republic in response to a request for assistance. These SMS messages are contained in the SMS call sequence table for

¹⁹ STL-PD-2010-02, Practice Direction on the Procedure for Taking Depositions Under Rules 123 and 157 and for Taking Witness Statements for Admission in Court Under Rule 155, 15 January 2010.

²⁰ Prosecution motion, para. 18.

²¹ Prosecution motion, para. 19, referring to Practice Direction, Article 2 (2) (c).

²² Prosecution motion, para. 19.

²³ Prosecution motion, para. 21.

‘Purple 018’,²⁴ but were recorded there in a coded form. One of the decoded SMSs contains the name ‘Sado’, which may be read to be a diminutive of the name ‘Assad’. According to the Prosecution, this exhibit is relevant to demonstrating Mr Sabra was the user of ‘Purple 018’. The evidence was disclosed to the Defence on 28 August 2015. The document is short and it facilitates the efficient presentation of evidence by only presenting the most relevant evidence. Adding this document will not cause undue delay and does not prejudice the Defence.²⁵

15. As the motion and its annexes contain confidential information regarding the identity and personal details of third party individuals, the Prosecution requests the Trial Chamber to maintain the confidential status of the motion and its annexes.²⁶

Defence submissions

16. The Ayyash Defence does not formally object to the admission of the documents and witness statements, but expresses concern that the Prosecution, under the guise of ‘streamlining’ its case, has failed to tender the best available evidence for the Trial Chamber, both in this instance and in general.²⁷ In particular, contrary to the Prosecution’s submissions in relation to the probative value of Witness 697’s statement, only the witness’s relative is in the position to explain who he had called on the numbers attributed by the Prosecution to Mr Ayyash. The fact that Witness 697’s relative was an acquaintance of Mr Ayyash during the relevant time period and was in contact with numbers attributed by the Prosecution to Mr Ayyash does not establish that it was Mr Ayyash who was using those mobiles at the time of the contact.²⁸

17. The Sabra Defence does not oppose the admission into evidence of the documents and statements, but submits that the document containing decoded text of SMS messages is of limited relevance and probative value. The Prosecution only seeks to explain the relevance of one SMS message, and provides no explanation for the other seven.²⁹ The Prosecution also fails to provide any additional evidence to support its deduction that ‘Sado’ is a diminutive of

²⁴ Exhibit P523 is an SMS call sequence table for ‘Purple 018’, which the Prosecution attributes to Mr Sabra.

²⁵ Prosecution motion, paras 22-24.

²⁶ Prosecution motion, para. 25.

²⁷ F3078, Ayyash Defence Response to Prosecution Motion to Admit Two Witness Statements Pursuant to Rule 155 and Three Exhibits Pursuant to Rule 154 Related to General Phone Evidence, 11 April 2017, paras 1 and 3.

²⁸ Ayyash response, para. 2.

²⁹ F3075, Response to “Prosecution Motion to Admit Two Witness Statements Pursuant to Rule 155 and Three Documentary Exhibits Pursuant to Rule 154, All Related to General Phone Evidence”, 11 April 2017, paras 3, 5.

‘Assad’.³⁰ Counsel for Mr Sabra reiterate that their lack of a formal objection is not an acceptance of the attribution by the Prosecution of ‘Purple 018’ to Mr Sabra.³¹

18. The Merhi Defence opposes the admission into evidence of the set of documents concerning the subscriber records of three ‘green’ mobiles and Mr Carnus’s statement, arguing that they do not meet the requirements of Rules 154 and 155 and that their admission into evidence would irreparably prejudice the Defence, and this prejudice is not outweighed by their alleged probative value.³²

19. As the documents are vague, the Defence is unable to adequately test the Rule 149 admissibility requirements.³³ The documents do not show that the names and personal details used in the subscriber records do not exist; rather, they indicate that the relevant enquiries by the Lebanese Directorate General for Civil Status were unsuccessful, without detailing how this investigation was carried out or the state of the archives used. The documents should not be admitted into evidence unless the Prosecution is able to provide contextual evidence on their creation. The Defence is unable to test the grounds for the Prosecution’s contention that the ‘green’ mobiles were purchased and used with false identity documents and that therefore they constituted a ‘covert network’. Cross-examining Mr Donaldson cannot remedy this, as he lacks first-hand knowledge of the data used by the relevant authorities. If the Trial Chamber dismisses the Defence’s request to reject the documents’ admission into evidence, the Defence alternatively seeks a deferral of this decision until the Prosecution can provide contextual evidence on the documents’ creation.³⁴

20. The Prosecution should have sought the addition of Mr Carnus’s statement to its exhibit list before seeking its admission into evidence, since it adds ‘substantive evidence’ in accordance with conditions set out by the Trial Chamber. The statement also concerns a change of handset or IMEI which, in the circumstances of this case, ‘clearly amounts’ to the

³⁰ Sabra response, para. 6.

³¹ Sabra response, paras 7-8.

³² F3088, Réponse de la Défense de Merhi à la «Prosecution Motion to Admit Two Witness Statements Pursuant to Rule 155 and Three Documentary Exhibits Pursuant to Rule 154, All Related to General Phone Evidence», 18 April 2017, paras 1-2, 19.

³³ Rule 149 provides the general principles on the admission of evidence. In particular, Rule 149 (D) provides that a Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial. In particular, the Chamber may exclude evidence gathered in violation of the rights of the suspect or the accused as set out in the Statute and the Rules.

³⁴ Merhi response, paras 3-14.

Accused's acts and conduct. The statement does not meet any of the requirements of Rule 155 (A) (i).³⁵

DISCUSSION

Admission into evidence of the three documents

21. The Trial Chamber has previously recognised the general principles and rules of international criminal procedural law relating to the admission and exclusion of evidence, and the procedural safeguards for the admission of material tendered 'from the bar table', under Rule 154.³⁶ These principles are applicable here.

22. The Trial Chamber has carefully reviewed these documents, and every other document in the annexes to the Prosecution motion, and the submissions. The three documents are relevant to establishing that (i) names of 'untraceable' persons were used on subscriber records for 'green network' telephone numbers which the Prosecution attributes to some of the Accused; and (ii) the content of one of the decoded SMS messages assists in the identification the Accused, Mr Sabra, as the user of the mobile 'Purple 018'.

23. Counsel for Mr Ayyash and Mr Sabra do not oppose the admission into evidence of the documents. The Merhi Defence submits that the documents under categories (a) and (b) should not be admitted into evidence because the Prosecution did not provide sufficient contextual evidence in relation to their production. The Trial Chamber has previously found records issued by the Lebanese General Directorate for Civil Status under the authority of the

³⁵ Merhi response, paras 15-18. Rule 155 (A) provides that, subject to Rule 158, the Trial Chamber may admit in lieu of oral testimony the evidence of a witness in the form of a written statement, or a transcript of evidence which was given by a witness in proceedings before the Tribunal, which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment. (i) Factors in favour of admitting evidence in the form of a written statement include, but are not limited to circumstances in which the evidence in question: (a) is of a cumulative nature, in that other witnesses have given or will give oral testimony of similar facts; (b) relates to relevant historical, political or military background; (c) consists of a general or statistical analysis relating to the composition of the population in the places to which the indictment relates; (d) concerns the impact of crimes upon victims; (e) relates to issues of the character of the accused; (f) relates to factors to be taken into account in determining sentence; or (g) has been given by the witness in the presence of the Parties who have had the opportunity to examine or cross-examine him.

³⁶ Rule 154: 'Subject to Rules 155, 156 and 158, the Trial Chamber may admit evidence in the form of a document or other record, consistently with Rule 149 (C) and (D). See F1937, Decision on Five Prosecution Motions on Call Sequence Tables and Eight Witness Statements and on the Legality of the Transfer of Call Data Records to UNHCR and STL's Prosecution, 6 May 2015, paras 66 and 111; F1876, Decision on Three Prosecution Motions for the Admission into Evidence of Mobile Telephone Documents, 6 March 2015, para. 33; F1350, Decision on Prosecution's Motion to Admit into Evidence Photographs, Questionnaires and Records of Victims, 28 January 2014, paras 5-7; Call Sequence Table Decision of 31 October 2016, paras 70-72.

Ministry of Interior and Municipalities admissible under Rule 154.³⁷ In this case, the Prosecution described in detail—in Annex A to its motion—how, upon its requests for assistance, the Lebanese General Directorate for Civil Status produced the documents. The Trial Chamber is satisfied of the provenance and the *prima facie* reliability of the documents under categories (a) and (b).

24. The Sabra Defence, while not opposing the document containing decoded text of SMS messages, argues that it is of limited relevance and probative value because the Prosecution only seeks to explain the relevance of one SMS message, and provides no explanation for the other seven. The Trial Chamber, in its previous decisions, has dealt with the general Defence challenges to the reliability of the Prosecution's cell site evidence, call data records and call sequence tables generally.³⁸ The Trial Chamber must only be satisfied that these particular tables are *prima facie* reliable. How much weight may be given to these documents is subject of decision at a later stage of the proceedings.

25. The list of assigned country codes downloaded from the website of the International Telecommunication Union is uncontroversial and hence admissible under Rule 154.

26. The Trial Chamber finds that adding to the Prosecution's exhibit list the document containing the decoded SMS content of eight SMS messages sent or received by the telephone number 'Purple 018' is in the interests of justice, despite the advanced stage of the trial proceedings.

27. The Trial Chamber considers that these documents are relevant and *prima facie* reliable and hence have some probative value. Defence counsel received notice of their content in a timely manner. Admitting these documents into evidence will cause no undue delay in the trial proceedings.

³⁷ F2636, Corrected Version of 'Decision On Prosecution Motion for the Admission of Civil Records' dated 12 July 2016, 12 July 2016, para. 12.

³⁸ F2750, Reasons for Admitting Witness PRH705's Statements and Annexes into Evidence, 30 September 2016, paras 18-28; F2767, Written Reasons for Admitting Witness PRH 707's Statements and Annexes into Evidence, 10 October 2016, paras 39-57, 62-74; Decision of 26 October 2016, paras 62-96; Decision of 31 October 2016, paras 74-95; F2894, Decision on the Admission of the Consolidated OGERO Statement, 7 December 2016; F2818, Decision on Prosecution Rule 154 Motion for the Admission of Documents Relating to Telephone Subscriber Records from the OGERO Company, 7 November 2016.

Admission into evidence of witness statements of Witnesses PRH697 and Mr Christian Carnus (Witness PRH377) under Rule 155

28. In earlier decisions, the Trial Chamber determined the procedural safeguards for admitting statements into evidence under Rule 155. These allow it to receive written testimony in lieu of live oral testimony in the courtroom. In particular, a statement must meet the basic requirements for admission into evidence under Rule 149 and the interests of justice and the demands of a fair and expeditious trial warrant its admission without cross-examination.³⁹ These principles are applicable here.

29. Counsel for Mr Ayyash and Mr Sabra do not oppose the admission into evidence of the statements. The Merhi Defence submits that the Prosecution should have sought the addition of Mr Carnus's witness statement to its exhibit list filed under Rule 91 before seeking its admission into evidence because it adds 'substantive evidence'. However, Mr Carnus has been on the Prosecution's witness list since its initial submission under Rule 91 on 15 November 2012. The Trial Chamber has previously held that if a witness appears on a Party's witness list and the opposing Parties have notice of the scope of that witness's evidence, adding every statement by that witness separately to the Party's exhibit list is unnecessary.⁴⁰ It is therefore not necessary to add Mr Carnus's statement to the Prosecution's exhibit list before admitting it into evidence.

30. The Trial Chamber, having reviewed the two witness statements, finds them relevant to and have some probative value the attribution of specified 'green' and 'red' 'covert' network mobiles, and personal mobiles attributed to the Accused, Mr Ayyash and Mr Merhi, and to the former Accused, Mr Badreddine, and the attribution of telephone numbers in contact with those numbers.

31. The Merhi Defence argues that Mr Carnus's statement concerns a change of handset or IMEI which 'clearly amounts' to the Accused's acts and conduct. However, the Trial Chamber has previously found statements relating to the attribution of telephone numbers of the Accused admissible under Rule 155, as evidence going to proof of a matter other than the

³⁹ F2644, Decision on Prosecution Motion to Admit the Statements of Witnesses PRH024, PRH069, PRH106 and PRH051 Pursuant to Rule 155, 12 July 2016, para. 25, referring to the Trial Chamber's earlier relevant decisions.

⁴⁰ F2224, Corrected Version of "Decision on Prosecution Motion for the Admission of the Statements of Witnesses PRH056 and PRH087" of 29 September 2015, 5 October 2015, para. 18.

acts and conduct of the accused.⁴¹ In his statement, Mr Carnus describes how he searched the SQL (Sequential Query Language) database⁴² to (i) describe which handsets (IMEIs) have been used with telephone numbers in the ‘green’ and ‘red’ networks; (ii) outline any additional telephone numbers that have also been used with these handsets.⁴³ Mr Carnus’s statement cannot therefore be said to be going to proof of acts and conduct of the Accused.

32. The requirements of Rule 155 (B) are equally met as the statements also comply with the relevant Practice Direction—except the inconsequential technical departure from these requirements of Witness 697’s statement—in that they have been dated, and are accompanied by a witness information sheet, interviewer’s certification and interpreter’s certification, amongst others. Therefore, the Trial Chamber finds that both witness statements are sufficiently reliable to satisfy the requirements for admission under Rule 155. There is no overriding public interest that would otherwise require the evidence in question to be presented orally, in whole or in part.

CONFIDENTIALITY

33. The Prosecution requested the Trial Chamber to maintain the confidentiality of the motion and the annexes accompanying its motion as they contain confidential information regarding the identity of third parties, until the Trial Chamber decides otherwise, either upon the motion of the Prosecution or after having given the Prosecution the opportunity to be heard on this issue. Counsel for Mr Ayyash, Mr Merhi and Mr Sabra stated that their responses can be reclassified from confidential to public.⁴⁴ While in these proceedings confidentiality is the exception, not the rule, the Trial Chamber is satisfied that annexes A-D to the Prosecution motion should remain confidential, until it decides otherwise. The Trial Chamber sees no reason to maintain the confidentiality of annex E—which lists the relevant call sequence tables for each number sought to be attributed to the Accused, Mr Ayyash and Mr Merhi, and to Mr Badreddine—as it does not contain information regarding third parties.

⁴¹ F2062, Decision on ‘Prosecution Motion for the Admission of Locations Related Evidence’, 9 July 2015, para. 39.

⁴² The SQL Database is a database generated from a subset of the raw telecommunications data that the Prosecution has in its possession. This is because the Prosecution has only analysed and/or uploaded that data which it considers to be relevant to its case, and which the rules require it to provide for inspection.

⁴³ Prosecution motion, Annex B, Item 2.

⁴⁴ Merhi response, para. 20; Sabra response, para. 9; Ayyash response, para. 4.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

DECLARES admissible, under Rule 154, the documents listed in Annex A to the Prosecution motion;

DECLARES admissible, under Rule 155, the statements of Witness PRH697 and Mr Christian Carnus (Witness PRH377) listed in Annex B to the Prosecution motion;

DECIDES that it will, at the suitable stage in the proceedings, admit these documents into evidence and allocate exhibit numbers to them;

ORDERS the Prosecution and counsel for Mr Ayyash, Mr Merhi and Mr Sabra to file public redacted versions of their filings;

INSTRUCTS the Registry to reclassify annex E of the Prosecution motion from confidential to public; and

MAINTAINS the confidentiality of annexes A-D of the Prosecution motion until further order.

Done in Arabic, English, and French, the English version being authoritative.

Leidschendam,
The Netherlands
15 May 2017

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

