

**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: 20 July 2017

Original language: English

Classification: Public

**DECISION DISMISSING ONEISSI DEFENCE REQUEST FOR
RECONSIDERATION OF THE TRIAL CHAMBER'S ORDER DATED 18 JULY 2017**

(Extract from Official Public Transcript of Hearing on 20 July 2017, page 85, line 6 to page 86, line 19)

On 18th of July, 2017, in filing F3232, the Trial Chamber filed an order to “Order to Provide Submissions on the Relevance of Proposed Questions to a Witness Testifying under Rule 125(B) , as Submitted by the Oneissi and Sabra Defence,” ordering counsel for the accused Mr. Oneissi and Mr. Sabra to provide submissions by 9.00 a.m. today, Thursday, the 20th of July, 2017, in relation to, and with respect to Mr. Oneissi, the relevance of specified questions, the probative value of any answers to specified questions, and the reasons for repetition of questioning relating to the witness's statements and in relation to specified questions.

In relation to Mr. Sabra, the Trial Chamber ordered counsel to file submissions as to the probative value of answers to four specified questions.

Counsel for Mr. Assad Hassan Sabra, in compliance with the order, filed their submissions in filing F3236.

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Counsel for Mr. Oneissi, in filing F3237, “Defence for Hussein Hassan Oneissi Submissions on the Relevance of Proposed Questions to a Witness Testifying under Rule 125,” refused to file submissions stating:

“The Trial Chamber has no jurisdiction over the procedure applicable to the collection of this evidence,” and “there is therefore no legal basis for the order.”

Counsel for Mr. Oneissi, however, failed to either seek reconsideration of the decision under Rule 140 or certification for interlocutory appeal under Rule 126(C). And in oral submissions today in court, they sought reconsideration under Rule 140 of the decision, arguing that there was a contradiction between a decision of the Trial Chamber of the 14th of June, 2017, filing F3180, “Order and Decision in Relation to a Witness Testifying under Rule 125,” specifically referring to paragraph 14 of that decision.

The Trial Chamber explained to counsel for Mr. Oneissi in today's proceedings that there was no contradiction because paragraph 14 referred to a situation in which a party who had not seen the questions in advance was unable to make objections until the question had been answered, which is not normally the situation in court proceedings.

The test for reconsideration is whether the decision involves an actual injustice to a party. Counsel for Mr. Oneissi conceded, in oral submissions, that there was no injustice. That being the case, the Trial Chamber did not hear from the Prosecution and dismisses the application to reconsider its decision of the 18th of July, 2017.

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