

**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:** 30 August 2017

**Original language:** English

**Classification:** Public

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**DECISION ON THE LEGAL REPRESENTATIVES OF VICTIMS' APPLICATION  
TO POSTPONE THE RECOMMENCEMENT OF THE CROSS-EXAMINATION OF  
MR DONALDSON**

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(Extract from Official Public Transcript of Hearing on 30 August 2017, page 93, line 13 to  
page 95, line 24)

The Chamber is making the following decision on an application by the Legal Representatives of Victims that it not interpose further cross-examination by counsel for the Defence of Mr. Assad Hassan Sabra during the case of the Participating Victims in the week of court 5th to 8th of September.

The Chamber today had decided that it would, because the Court was scheduled to sit on Tuesday, the 5th, and Wednesday, the 6th of September and which there would be no evidence scheduled from the Participating Victims, to continue with the evidence of Mr. Andrew Donaldson and in particular the cross-examination by counsel for Mr. Sabra, Mr. David Young, on those two days, and to return to the evidence of the Legal Representatives of Victims on Thursday, the 7th, and Friday, the 8th of September, when two witnesses are scheduled to testify. On Thursday it would be Participating Victim 056, and on Friday, Professor Rianne Letschert.

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In addition to those two witnesses, the Legal Representatives of Victims intends to tender into evidence the statements of 17 participating victims and to read onto the record a summary of their statements, and eight participating victims and three family members of the participating victims will be present in Leidschendam, in the Netherlands, next week to [...] participate in the proceedings by being present in the courtroom during the case of the Victims.

Counsel for the Legal Representatives of Victims, Mr. Haynes, has submitted that it would present difficulties to his case if the Chamber were to interpose the Prosecution case and, in particular, the cross-examination of Mr. Donaldson. The Chamber has to balance competing considerations here. On one hand, we have four days of court scheduled. And even on Mr. Haynes's most optimistic - when I say "optimistic," I mean lengthy - estimate of how long it will take him to get through the remainder of his case, it would be probably less than three days, against the efficient use of the court time. And the Chamber notes that these dates have been long scheduled for court sitting, whether it be for the case for the Participating Victims or for the Prosecution case. And the Chamber is very reluctant to abandon court sitting days when it is available to hear the evidence and the parties and the witnesses are available.

The Chamber has made inquiries of the Special Tribunal's Court Management to ascertain whether we could sit on Monday, the 4th of September, and thus allowing Mr. Young to cross-examine Mr. Donaldson on Monday, the 4th, and Tuesday, the 5th of September, but it appears that at this late notice - that is, on Wednesday, the 30th of September - there were difficulties in obtaining the services of Arabic and French interpreters on Monday the 4th. So that is, unfortunately, not an option.

The Chamber has carefully considered the arguments of Mr. Haynes, to which some support was given by counsel for Mr. Sabra, in court, and is of the view that in the circumstances the interests of justice would be served by the Chamber, in these circumstances, not sitting on Tuesday, the 5th of September. And we will therefore grant his application, but make it quite clear we are doing this with extreme reluctance and only because the Chamber is concerned that interposing the evidence of the Participating Victims' case, namely, Wednesday, the 6th of September, may not allow them to do proper justice to their case. And we're also mindful of the fact that it would present some minor difficulties to counsel for Mr. Sabra to have to travel to The Hague for one day of cross-examination.

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So in these circumstances, the Chamber will grant the application and will not sit on Tuesday, the 5th of September. And we will try to make up the day which is lost in court during the remaining scheduled court sitting weeks in September.

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