

**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: 13 December 2017

Original language: English

Classification: Public

**DECISION ADMITTING INTO EVIDENCE A SERIES OF MAPS SHOWING
MOVEMENT OF SELECTED MOBILES IN THE AREA OF THE ARAB
UNIVERSITY MOSQUE BETWEEN DECEMBER 2004 AND FEBRUARY 2005**

(Extract from Official Public Transcript of Hearing on 13 December 2017, page 39, line 10 to page 41, line 4)

The amended consolidated indictment alleges that the accused, Mr. Hussein Hassan Oneissi, was involved between December 2004 and January 2005 in locating a person to make a false claim of responsibility for the future attack against Mr. Rafik Hariri. For this purpose, Mr. Oneissi was in the vicinity of the Arab University Mosque of Beirut on several days during this period.

Counsel for Mr. Oneissi cross-examined the Prosecution expert witness Mr. Gary Platt and showed him a series of maps illustrating how mobiles attributed to Mr. and Mrs. Oneissi's family activated cell phone towers in the area of the mosque between December 2004 and February 2005. Counsel tendered the maps into evidence on 19th of April, 2017, and they were collectively marked for identification as Exhibit 4D364 MFI.

On 21 November 2017, counsel for Mr. Oneissi filed an application requesting the Trial Chamber to admit into evidence that exhibit, amongst others, that was F3419, "Oneissi Defence motion for the admission into Evidence of Three Documents Marked for

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Identification." The application requested the admission into evidence of two other documents, exhibits marked for identification, which the Trial Chamber will deal with separately.

The Oneissi Defence submitted that Exhibit 4D364 MFI is relevant and probative of innocent reasons why Mr. Oneissi would have been in the area of the Arab University Mosque. The Defence explains how the maps were created in support of the exhibit having prima facie reliability and hence some probative value.

The Prosecution responded on 7 December 2017 that the Oneissi Defence failed to provide the underlying material or demonstrate the criteria for selection of calls and dates in the maps contained in the exhibit. It is not possible, the Prosecution submitted, to identify whether the selected calls are representative or not of the movement of the mobiles. A single contact with a cell tower may be a mere aberration or reflect someone calling while driving through or past an area. And this is set out in filing F3465, "Prosecution response to 'Oneissi Defence Motion for the Admission into Evidence of Three documents Marked for Identification.'"

The Trial Chamber considers that the Oneissi Defence has established the relevance and prima facie reliability and hence probative value of Exhibit 4D364 MFI and has established enough probative value to warrant its admission into evidence. The Prosecution's concerns, in the Trial Chamber's view, regarding selectivity go to the weight of the exhibit, which the Trial Chamber will assess along with all the other evidence later in the trial.

The Chamber therefore orders that Exhibit 4D364 marked for identification be admitted into evidence.

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