



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**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:** 27 November 2017

**Original language:** English

**Classification:** Public

**THE PROSECUTOR**

v.

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

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**ORDER TO THE SABRA DEFENCE AND THE PROSECUTION REGARDING  
CALL SEQUENCE TABLES SUBMITTED FOR ADMISSION INTO EVIDENCE**

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**Office of the Prosecutor:**Mr Norman Farrell & Mr Alexander Hugh  
Milne**Counsel for Mr Salim Jamil Ayyash:**Mr Emile Aoun, Mr Thomas Hannis &  
Mr Chad Mair**Legal Representatives of  
Participating Victims:**Mr Peter Haynes, Mr Mohammad F. Mattar  
& Ms Nada Abdelsater-Abusamra**Counsel for Mr Hassan Habib Merhi:**Mr Mohamed Aouini, Ms Dorothée Le Fraper  
du Hellen & Mr Jad Youssef 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 &  
Ms Sarah Bafadhel

1. On 9 November 2017, the Trial Chamber ordered counsel for the Accused, Mr Assad Hassan Sabra, to file written submissions in relation to the admissibility of documents marked for identification during the cross-examination of Prosecution witnesses, which they sought for admission into evidence.<sup>1</sup> On 16 November 2017, the Sabra Defence filed an application seeking the admission into evidence of 22 documents, including 13 it describes as ‘call sequence tables’. It submits that they were either marked for identification during the cross-examination of Mr Gary Platt (Witness PRH147) or ‘treated as MFI documents’.<sup>2</sup> The Prosecution opposed the Sabra Defence’s application.<sup>3</sup>

2. As to the ‘call sequence tables’ reliability, the Sabra Defence points to previous submissions where it described the methodology employed in their creation.<sup>4</sup> It extracted the ‘call sequence tables’ from the Golden Copy Structured Query Language (GC-SQL-02) database, selecting records of interest.<sup>5</sup>

2. The Prosecution submits that, in previous filings, it already detailed its objections regarding the Sabra Defence’s methodology. As in the present application the Sabra Defence does not provide any detail on the methodology, the documents produced can be assumed to present the same reliability issues as the documents previously tendered. The documents are not comprehensive call sequence tables—that is, tables comprising all calls for a particular mobile number over a particular period of time—but rather ‘tables of selected calls’, created to present a subjective case theory. They include duplications of rows and other inconsistencies which the Prosecution has previously highlighted, but the Sabra Defence has not rectified. To remedy these irregularities, the documents must be re-made and re-tendered,

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<sup>1</sup> STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, transcript of 9 November 2017, pp 107-108.

<sup>2</sup> F3414, Sabra Defence Application for Admission into Evidence of Twenty Two Documents Marked for Identification, 16 November 2017 (public with confidential annexes A-H) (‘Sabra Defence application’), paras 1, 6, 76. The Trial Chamber notes that only six of the 13 call sequence tables proposed for admission were previously marked for identification. *See* exhibits 5D349, 5D350, 5D351, 5D352, 5D353, 5D354.

<sup>3</sup> F3422, Prosecution Response to ‘Sabra Defence Application for Admission into Evidence pursuant to Rule 149 (C) of Twenty Two Documents Marked for Identification’, 23 November 2017 (confidential with confidential annex A) (‘Prosecution response’).

<sup>4</sup> Sabra Defence application, para. 9, referring to F3374, Reply to “Prosecution Consolidated Response to Sabra Defence Evidential Motions Two to Six relating to Ahmed Abu Adass”, 23 October 2017 (confidential), confidential annex B. The Trial Chamber notes that footnote 9 to para. 9 of the application mistakenly refers to filing number F0937, instead of filing number F3374.

<sup>5</sup> Sabra Defence application, paras 63-65, 77-78.

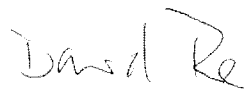
accompanied by the witness statement(s) of the creator(s) of the exhibits, to allow for their accuracy to be properly tested.<sup>6</sup>

4. The Trial Chamber finds that, in the interests of justice and expeditiousness of the proceedings, the Sabra Defence must produce revised call sequence tables, taking into account the Prosecution’s objections, together with the statement(s) of their creator(s) to support their *prima facie* reliability and hence probative value.

4. The Trial Chamber therefore orders counsel for Mr Sabra to provide, by 1 December 2017, the modified call sequence tables and the statement(s) of their creator(s). The Trial Chamber orders the Prosecution, by 4 December 2017, to notify the Trial Chamber whether it objects to their admission into evidence. The Trial Chamber urges the Parties to cooperate so as to reach agreement on the admissibility of the documents.

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

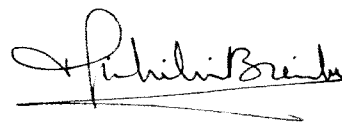
Leidschendam,  
The Netherlands  
27 November 2017



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Judge David Re, Presiding



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Judge Janet Nosworthy



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Judge Micheline Braidy



<sup>6</sup> Prosecution response. paras 9-10, referring to F3402, Prosecution Sur-Reply to ‘Sabra Defence Reply to Prosecution Consolidated Response to Sabra Defence Evidential Motions Two to Six relating to Ahmed Abu Adass’, 3 November 2017 (confidential), and 11-21.