



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

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: 31 March 2016

Original language: English

Classification: Public

THE PROSECUTOR

v.

SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA

DECISION ON THE ADMISSION OF MR GARY PLATT (WITNESS PRH147) AS AN EXPERT WITNESS

Office of the Prosecutor:

Mr Norman Farrell, Mr Graeme Cameron
& Mr Alexander Hugh Milne

Victims' Legal Representatives:

Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra

Counsel for Mr Salim Jamil Ayyash:

Mr Eugene O'Sullivan, Mr Emile Aoun &
Mr Thomas Hannis

Counsel for Mr Mustafa Amine Badreddine:

Mr Antoine Korkmaz, Mr Iain Edwards &
Ms Mylène Dimitri

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 Youssef
Hassan & Ms Natalie von Wistinghausen

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Guénaél Mettraux &
Mr Geoffrey Roberts



INTRODUCTION

1. On 11 March 2016, the Prosecution filed an application seeking to qualify Mr Gary Platt (Witness PRH147) as an expert witness, under Rule 161 of the Special Tribunal's Rules of Procedure and Evidence, and asks that a decision on the admission of his expert report entitled 'Network Analysis Report: Red, Green, Blue and Yellow Phones' be deferred until its underlying sources have been admitted into evidence, or the relevant testimony has been adduced in court.¹ Counsel for all five Accused, Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi, Mr Assad Hassan Sabra and Mr Hassan Habib Merhi have filed separate responses and, for varied reasons, oppose the Prosecution's motion.² This decision relates only to the matter of the qualification of Mr Platt as an expert witness.

DISCUSSION

2. The principles governing the qualifications and the admission of witnesses as experts, together with the admission of expert reports under Rule 161 have been previously addressed, identified and applied.³ These principles are applicable here.

3. The Prosecution requests that a decision on the admission of Mr Platt's report be deferred⁴ and submits that, in light of Mr Platt's *curriculum vitae*, professional career, training and qualifications (contained in Annex A to its motion), he meets the standard of an expert witness.⁵ The Prosecution submits that he can assist in the Trial Chamber's navigation of the large volume of evidence 'by identifying the analytical queries that are pertinent to

¹ *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, STL-11-01/T/TC, F2489, Prosecution Motion for the Admission of Witness PRH147 as an Expert Witness, 11 March 2016.

² F2501, Badreddine Consolidated Response to Prosecution Motions for the Admission of Witnesses PRH620 and PRH147 as Expert Witnesses, 17 March 2016; F2518, Defence for Hussein Hassan Oneissi Response to the "Prosecution Motion for the Admission of Witness PRH147 as an Expert Witness" of 11 March 2016, 23 March 2016; F2521, Ayyash Defence Response to "Prosecution Motion for the Admission of Witness PRH147 as an Expert Witness", 24 March 2016; F2523, Sabra Response to "Prosecution Motion for the Admission of Witness PRH147 as an Expert Witness", 29 March 2016; F2524, Réponse de la Défense de Merhi à la "Prosecution Motion for the Admission of Witness PRH147 as an Expert Witness, 29 March 2016.

³ F1610, Decision on Expert Witness PRH120, Professor Fouad Hussein Ayoub, and Expert Witness PRH508, Dr. Issam Mansour, 7 July 2014, paras 3-6; F1616, Decision on Witness PRH 348, Mr. Gerhard Geeyer, and Expert Witness PRH 387, Mr. Bart Hoogeboom, 11 July 2011, para. 3.

⁴ Prosecution motion, paras 7-8.

⁵ Prosecution motion, paras 10-12.

understanding the behavior of mobile telephone groups, and by interpreting the consequent results'.⁶

4. Counsel for all five Accused take issue with Mr Platt's qualifications and take objection to him being designated as an expert witness. They argue that he lacks specialized telecommunications analysis and telephone network knowledge; is not, or does not appear to be sufficiently independent from the Office of the Prosecutor because of his employment and role in that office; and that his prior testimony before United Kingdom courts do not confirm that he testified as an expert, and that in any event prior qualification is not determinative here.⁷ In addition, counsel for Mr Badreddine, Mr Oneissi, and Mr Merhi request to examine Mr Platt on his qualifications before the Trial Chamber issues its decision and Mr Platt testifies, while counsel for Mr Sabra request that the Trial Chamber issue its decision after Mr Platt's testimony.⁸

5. In light of the various objections raised by Defence, and the Trial Chamber's prior practice,⁹ it will hold a *voir dire* hearing at the commencement of Mr Platt's testimony to allow the Parties to question the witness and make submissions. The Trial Chamber will then decide on his qualifications and whether to qualify him as an expert under Rule 161.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

DEFERS its decision on whether to qualify Mr Platt as an expert witness until after the *voir dire* hearing.

⁶ Prosecution motion, para. 12.

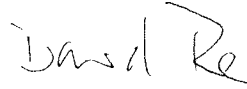
⁷ Badreddine response paras 2, 5, 7; Oneissi response, paras 2-3, 15-28; Ayyash response, paras 2-19; Sabra response, paras 2-3 and 5-26; Merhi response, paras 1-2.

⁸ Badreddine response paras 5, 7, 20; Oneissi response, paras 2, 15, 28, 33; and Merhi response, para. 2; Sabra response, paras 3, 28.

⁹ See e.g. F1616, Decision on Witness PRH 348, Mr Gerhard Geyer, and Expert Witness PRH 387, Mr Bart Hoogeboom, 11 July 2014, para. 6.

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

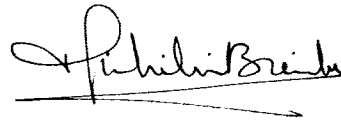
Leidschendam,
The Netherlands
31 March 2016



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

