

**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 August 2016

Original language: English

Classification: Public

DECISION DENYING THE AYYASH DEFENCE'S REQUEST TO EXCLUDE A PORTION OF MR EDWARD PHILIPS' REPORT OF 29 JUNE 2015

(Extract from Official Public Transcript of Hearing on 31 August 2016, page 2, line 1 to page 3, line 8)

On the 18th of August, 2015, the Trial Chamber accepted that Mr. John Edward Philips, on the basis of his curriculum vitae and a report which became Exhibit P549 in the proceedings and a short voir dire as to his qualifications, was an expert in relation to the field of telecommunications and cell site and had relevant expertise on the workings of GSM generally as applied to cell site analysis.

[...]

PRESIDING JUDGE RE: The Trial Chamber decided that he was an expert under Rule 161 of the Rules of Procedure and Evidence, being an expert, a person by whom having some specialized knowledge, skill, or training that could assist the trier of fact - that is, the Trial Chamber - to understand or determine an issue in dispute, which related to cell site evidence.

Counsel for the accused Mr. Salim Jamil Ayyash sought to exclude 52 to 65 of Mr. Philips' report, "Common Mission Phones," of the 29th of June, 2015, which [...] has been

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marked for identification as Exhibit P1117 on the basis that Mr. Philips lacked the qualifications to provide an opinion as to the hierarchy of what he calls mission phones.

The Trial Chamber held a short voir dire on the 30th of, August 2015, in which Mr. Philips was cross-examined as to his qualifications to give the opinions he expressed.

Having heard the evidence of Mr. Philips and the submissions of the parties, the Trial Chamber is satisfied that the opinions Mr. Philips expressed at pages 52 to 65 of his report fall within the expertise as already decided and will allow Mr. Philips to give those opinions.

The Trial Chamber will admit the disputed paragraphs into evidence if it decides to receive the report into evidence at the appropriate time. Ultimately, the determination of any opinion expressed by Mr. Philips is a matter of weight for the Trial Chamber in the assessment of his evidence at the relevant time.

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