

**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: 7 February 2017

Original language: English

Classification: Public

DECISION CLARIFYING THE “DECISION ON DEFENCE REQUEST FOR THE EXCLUSION OF MR GARY PLATT’S EVIDENCE” DELIVERED IN COURT ON 6 FEBRUARY 2017

(Extract from Official Public Transcript of Hearing on 7 February 2017, page 2, line 2 to page 3, line 11; page 3, line 23 to page 4, line 4)

This is a clarification of a decision delivered in court on Monday, the 6th of February, 2017 regarding the testimony of Mr. Gary Platt, issued at the request of counsel for Mr. Hussein Hassan Oneissi.

The Trial Chamber, on Monday, the 6th of February, 2017, dismissed a Defence request to exclude evidence by Mr. Gary Platt related to the use of the so-called group of “Purple Phones,” referred to in a letter that the Prosecution provided to Defence counsel on Thursday, the 2nd of February, 2017.

Counsel for Mr. Hussein Hassan Oneissi at the end of court proceedings on 6th of February sought further clarification of the decision.

The Trial Chamber restates that the letter of the 2nd of February provides further notice to the Defence of the expert opinion evidence that Mr. Platt is expected to give in court. The Trial Chamber will permit Mr. Platt to give that evidence; it is relevant and probative.

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Only the original speech is authentic.

The Oneissi Defence made an oral submission at page 35 of the transcript of 6th of February, 2017, seeking an order to prevent Prosecution counsel from “leading evidence from this expert that lies outside the scope of the amended updated indictment . . . the pre-trial brief . . . and the 18th June 2014.”

Counsel for Mr. Assad Hassan Sabra, at page 33, sought an order to prevent Mr. Platt from testifying about anything that is not in his chronology report of 20th of February, 2014, entitled “Communications evidence concerning the assassination of Rafik Hariri: Chronology report in respect of Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra,” which is Exhibit P1783 marked for identification.

The Trial Chamber has repeatedly ruled that the case against an accused person is contained in the combination of the indictment, the pre-trial brief, opening statements, disclosed evidence and any other relevant document providing notice of the case. The ambit of Mr. Platt's evidence in-chief falls within these categories.

The Defence is on notice, at the very least by the letter of February 2nd, 2017, of the scope of any expected opinion evidence not referred to in Mr. Platt's chronology report. The evidence is relevant, probative, and admissible and will not be excluded.

[...]

I would just add an addendum to the clarification the Trial Chamber delivered a moment ago. It is the following.

The reference to the transcript at page 35 of the 6th of February, 2017 refers to the Prosecution's opening statement in relation to Hassan Habib Merhi of the 18th of June, 2014. That's what counsel for Mr. Oneissi referred to in their submissions.

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