



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE PRESIDENT OF THE TRIBUNAL

Case No.: STL-11-01/I/PRES
Before: Judge Antonio Cassese
Registrar: Mr Herman von Hebel
Date: 18 August 2011
Original language: English
Type of document: Public

PROSECUTOR

v.

**SALIM AYYASH, MUSTAFA BADREDDINE, HUSSEIN ONEISSI
AND ASSAD SABRA**

ORDER PURSUANT TO RULE 76(E)

The Prosecutor:
Mr Daniel A. Bellemare, MSM, Q.C.

The Head of the Defence Office:
Mr François Roux

The authorities of the Lebanese Republic





SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

1. In my capacity as President of the Special Tribunal for Lebanon (“Tribunal”), I herein order that the service of process in *Prosecutor v. Ayyash, Badreddine, Oneissi and Sabra*, Case No. STL-11-01, “be effected in an alternative manner, including procedures of public advertisement”, pursuant to Rule 76(E) of the Tribunal’s Rules of Procedure and Evidence (“Rules”). As this Order represents the first invocation of Rule 76(E), and given the important interests at stake, I will first describe the context and considerations that inform my determination.

PROCEDURAL BACKGROUND

2. The Pre-Trial Judge confirmed an indictment in *Ayyash et al.* and issued four arrest warrants on 28 June 2011 against Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi and Assad Hassan Sabra.¹ Upon a request from the Prosecutor, the Pre-Trial Judge also ordered that the indictment and his decision confirming the indictment remain confidential, pursuant to Rule 74 (Non-Disclosure of the Indictment) of the Rules.²

3. The Registrar transmitted the indictment and arrest warrants to Lebanon, the state of nationality and the last known place of residence of the four accused, on 30 June 2011.³ This step was taken pursuant to Rule 76(A) (Service of the Indictment), which requires the Tribunal to formally provide the certified indictment “to the authorities of the State in whose territory the accused resides or was last known to be residing, or in whose territory or under whose jurisdiction he is believed likely to be found, in order to serve the indictment on the accused without delay”. Similarly, Rule 79(D) (Warrants of Arrest) requires the Registrar, upon an order by the Pre-Trial Judge, to transmit a certified copy of an arrest warrant to “the national authorities of a State in whose territory or under whose jurisdiction the accused resides, was last known to be, or is believed by the Registrar to be likely to be found”.

¹ See “Decision Relating to the Examination of the Indictment of 10 June 2011 Issued against Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi & Mr Assad Hassan Sabra”, Case No. STL-11-01/I, 28 June 2011.

² *Id.* at paras 98-104. Rule 74 allows the Pre-Trial Judge, “[i]n exceptional circumstances, on the application of the Prosecutor or Defence”, to order the non-disclosure of the indictment or any related information if it is “in the interests of justice to do so”. Rule 74 is an exception to the general requirement under Rule 73 (Public Character of the Indictment) that the indictment be made public once it is confirmed.

³ See Special Tribunal for Lebanon, “Confirmed indictment submitted to the Lebanese authorities” (press release), 30 June 2011, <http://www.stl-tsl.org/sid/276>.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

4. The arrest warrants requested the Lebanese authorities “to search for and arrest in any place where [the accused] might be found in the territory of the Lebanese Republic” and “to detain and transfer [the accused] to the headquarters of the Tribunal”. It also requested “the competent authorities of the Lebanese Republic to execute the present arrest warrant[s] and to order the transfer [of the accused] at the earliest opportunity” and “to inform the Accused in person, in a language that he understands, of” the arrest warrant, the order of transfer, the indictment issued against him and his rights under the Statute and the Rules.⁴

5. According to Rule 82 (Execution of Summonses, Warrants, Orders and Requests) of the Rules, the Lebanese authorities “shall act promptly and with all due diligence to ensure the proper and effective execution” of these arrest warrants.⁵ Article 15 of the Annex to UN Security Council Resolution 1757 (2007) likewise requires Lebanon to identify and locate persons, serve documents, arrest or detain individuals, and transfer indictees to the Tribunal “without undue delay”.⁶ The requested service of the indictment must be “personal service”, which is defined in Rule 76(B) as “giving the accused a copy of the indictment, together with [...] the arrest warrant”. Under Rule 76(C), Lebanon must inform the President of the Tribunal of the measures taken to effect such service no later than 30 days after the indictment was transmitted to Lebanon.⁷

6. On 8 July 2011, pursuant to Rule 84 (Issuance of International Arrest Warrant) of the Rules, the Pre-Trial Judge issued international arrest warrants against the four accused and authorised the Prosecutor to request Interpol to transmit “red notices” regarding the accused.⁸ Upon request by the Prosecutor, and to enable better dissemination, the Pre-Trial Judge on 28 July 2011 partially lifted the confidentiality of the indictment.⁹ Accordingly, the names, biographical information, and

⁴ See, e.g., “Warrant to Arrest Mr Mustafa Amine Badreddine Including Transfer and Detention Order”, Case No. STL-11-01/I, 28 June 2011, pp. 5-6.

⁵ See also Rule 20(B): “Where the Lebanese authorities receive [...] a warrant of arrest, [...] they shall provide the requested assistance without delay.”

⁶ Article 15 further provides that the Government of Lebanon “shall cooperate with all organs of the Special Tribunal [...] at all stages of the proceedings”.

⁷ According to Rule 7(C), time limits set by the Rules take into account only working days, excluding official Tribunal holidays and weekend days.

⁸ “Order on the Prosecution’s Motion for Variation of the Order for Non-Disclosure of the Indictment”, Case No. STL-11-01/I, 28 July 2011, at para. 2.

⁹ *Id.* at para. 3.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

photographs of the four accused, as well as the charges confirmed against each of them, were made public.¹⁰

7. On 16 August 2011, after consulting with the Prosecutor, the Pre-Trial Judge further lifted the confidentiality of the indictment, its annexes, the decision on the indictment, and the arrest warrants.¹¹ A redacted version of each was then made public on 17 August 2011.

THE REPORT OF THE LEBANESE AUTHORITIES

8. On 9 August 2011, Lebanon submitted a report pursuant to Rule 76(C). In that report, signed by the Public Prosecutor at the Lebanese Court of Cassation Judge Saïd Mirza, Lebanon stated that “the Lebanese authorities exerted its utmost efforts to execute any of the in absentee arrest warrants in the name of the four accused”, but that those efforts were unsuccessful. The annexes to the report included minutes prepared by the judicial police charged with executing the arrest warrants. The following summary draws from the report, as well as the annexed minutes, filed confidentially and *ex parte*, and therefore some detailed information is omitted.

9. To execute the arrest warrant against Salim Jamil Ayyash, the judicial police mentioned in their report that officers went to both residential addresses associated with the accused and met with the mayors of both localities. For the first address, the mayor confirmed that the accused is not registered on the local electoral lists or on its civil status registers and that he had no personal knowledge of the accused. The judicial police later knocked on the door of the address but received no answer, and the doorman stated that the accused had lived on the third floor but had not come there since 2007, though his wife still visits from time to time. For the second address, the judicial police confirmed through investigations that the building belongs to the accused’s family and that the accused has resided on the ground floor of the building, but that they no longer use that residence. The officers received no answer when they visited the given address, and the local mayor, who knew of the accused and his family, confirmed that they visit this location from time to time, but that they reside primarily in Beirut and that he had not seen the accused for a long time. For both addresses, the judicial police conducted additional secret investigations, which confirmed that the accused no

¹⁰ *Id.* at disposition.

¹¹ See « Ordonnance relative à la levée de la confidentialité de l’acte d’accusation établi à l’encontre de MM. Ayyash, Badreddine, Oneissi et Sabra et d’autres documents », Case No. STL-11-01/I, 16 August 2011.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

longer uses either residence and that his current whereabouts are unknown. The judicial police also visited the place of employment of the accused. The head of the office confirmed that the accused had been employed there since 2009 but had stopped coming to work after the arrest warrant was issued against him; as a result, his job had been terminated on 15 July 2011. The head of the office did not know the accused's present whereabouts. Upon a formal request, the judicial police also received the records of the accused's movements in and out of Lebanon, which included visits to other countries in the region between 1999 and 2005.

10. To execute the arrest warrant against Mustafa Amine Badreddine, the judicial police mentioned in their report that officers surveyed the two residential addresses and one work address associated with the accused and conducted related investigations. For the first given address, they knocked on the door on two different occasions but received no answer. The mayor of the locality confirmed that the accused is listed on the local electoral rolls, and the owner of a store in the same building as the given address confirmed that the accused's mother had lived in the building but no longer comes there. A subsequent visit affirmed that the accused's mother had not returned to the house and that her whereabouts are unknown. For a second address, the judicial police interviewed others in the neighbourhood, including the doorman of the identified building, who stated that no one named Badreddine resides at that location. For the third address, thought to be the accused's place of employment, the judicial police surveyed the store over several days but did not observe the accused. They later interviewed the manager of the store, who stated he did not know the accused and had no connection with him. The judicial police also sought records of the accused's movements in and out of Lebanon (including under his aliases); however, there were no records of such movements.¹² Throughout this period, the judicial police were conducting confidential and secret investigations and inquiries into the whereabouts of the accused.

11. To execute the arrest warrant against Hussein Hassan Oneissi, the judicial police mentioned in their report that officers conducted secret investigations about two residential addresses associated with the accused. The mayor of the locality of the first address confirmed that the accused is not registered on the local electoral lists, that he never completed any formalities for the accused and that he had no personal knowledge of him. The judicial police later searched for the exact location of the

¹² The records associated with one of the accused's aliases, Sami Issa, were not provided because of the large number of similar names.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

address and were unable to find it. The judicial police were similarly unable to find the second residential address, despite conducting secret investigations in the neighbourhood. When interviewed, the mayor of the locality of the second address asserted that the street was highly populated and that he had no knowledge of the existence of the mentioned building. He further informed the police that he did not know of the accused or of his whereabouts. The judicial police also visited the village where the accused was registered. Following investigations, they concluded that the accused did not own a house in that village. The mayor of the locality confirmed that the accused does not reside in the village; that his mother owned a house there, but that she resides permanently in Beirut; and that he did not know the place of residence of the accused or the nature of his work. The judicial police additionally visited the shop owned by the accused's nephews. They interviewed the person in charge of the employees, who asserted that the accused does not come to the shop or own any shares in it; the last time he saw the accused was in 2006. The judicial police also sought the records of the accused's movements in and out of Lebanon, including under his other known name, Hussein Hassan Issa. Those records indicated visits to other countries in the region.

12. To execute the arrest warrant against Assad Hassan Sabra, the judicial police mentioned in their report that officers conducted secret investigations about his whereabouts but were unable to gather any relevant information. They first visited the locality where the accused is registered. A mayor of a neighbouring locality stated that the accused is registered on the electoral lists, but that he never completed any formalities for the accused and that he had no personal knowledge of him, his family or his place of residence. When interviewed later, the mayor of the locality in which the accused is registered asserted that he, too, did not know of the accused or his family. The judicial police then conducted investigations about the residential addresses associated with the accused. For the first address, they were unable to locate the address, despite secret investigations in the neighbourhood. They visited the mayor of that locality, who also asserted that the accused is not registered on the local electoral lists, that he never completed any formalities for the accused and that he had no personal knowledge of him or his family. The second address turned out to be the residence of the accused's family. The judicial police visited that location twice. They knocked on the door, but no one responded. They inquired with the neighbours, who confirmed that the accused no longer visited his family's residence. Regarding the third address, the judicial police inquired with the mayor of that locality, who asserted that the accused did not live at the given address and that he



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

did not know the accused. The judicial police also sought records of the accused's movements in and out of Lebanon, but no such records were found.

APPLICABLE LAW AND OTHER CONSIDERATIONS

13. This sequence of events brings us to Rule 76(E), which provides in full:

Where the President establishes that reasonable attempts have been made to serve the indictment, the summons to appear or the warrant of arrest to the accused, but that they have failed, he may, after consulting the Pre-Trial Judge, order the service of process to be effected in an alternative manner, including procedures of public advertisement.

This last reference is to the procedure described in Rule 76 *bis* (Advertisement of the Indictment) which provides:

In keeping with the President's order made under Rule 76 (E), a form of advertisement shall be transmitted by the Registrar to the authorities of any relevant State or entity for publication in newspapers and/or for broadcast via radio, television and/or other media, including the internet, providing notification to the public of the existence of an indictment and calling upon the accused to surrender to the Tribunal or in any case to submit to its jurisdiction. The advertisement shall invite any person with information as to the whereabouts of the accused to communicate that information to the Tribunal.

For the reasons that follow, I conclude that it is appropriate to invoke Rule 76(E) and order the service of process through alternative means.

14. The primary consideration under Rule 76(E) is whether "reasonable attempts have been made to serve the indictment" on the accused. The legal standard of "reasonable attempts" must be evaluated in light of the possibility that the Tribunal may ultimately conduct a trial in the absence of one or more of the accused. This Order is a preliminary step towards the possible initiation of a trial *in absentia*, for public advertisement under Rule 76 *bis* is a prerequisite for the invocation of Rules 105 *bis* (Absence of the Accused from the Proceedings before the Pre-Trial Judge) and 106 (Determination of the Intention to Avoid Trial or of the Impossibility to Attend).¹³

¹³ See Rule 105 *bis*(A): "If, within a period of 30 calendar days starting from the advertisement referred to in Rule 76 *bis*, the accused is not under the Tribunal's authority, the Pre-Trial Judge shall ask the Trial Chamber to initiate proceedings *in absentia*." Rule 106 then outlines the determination that must be made by the Trial Chamber before proceeding with a trial *in absentia*. See Rule 105 *bis*(B).



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

15. Under Article 22(2)(a) of the Tribunal's Statute, a trial *in absentia* is only permissible if "[t]he accused has been notified, or served with the indictment, or notice has otherwise been given of the indictment through publication in the media or communication to the State of residence or nationality". Therefore, before moving to a decision (to be taken by the Trial Chamber at the request of the Pre-Trial Judge, in accordance with Rule 105 *bis*(A)) on a trial in the absence of the accused, the President must ensure that *all* reasonable efforts have been made to provide each accused with notice of the charges against him. I must also emphasise that it is in the best interests not only of the accused, but also of the Tribunal – with its purpose of achieving a fair and efficient trial to establish truth and promote reconciliation within Lebanon – for each accused to be present and to fully participate in his own defence.

16. Given this context, whether "reasonable attempts have been made to serve the indictment" should be treated as a rigorous standard, requiring meaningful efforts to effect service through a variety of channels.

17. First, I conclude that the Tribunal's efforts in this regard have been reasonable. In particular, I note the timely transmission of the indictment and warrants of arrest to Lebanon; the limited disclosure of the indictment by the Prosecutor to the Lebanese authorities to assist them in their efforts to serve the indictment; and the issuance of international arrest warrants and the provision to Interpol of the information necessary for the release of "red notices." I also note that – once the Pre-Trial Judge deemed it appropriate to partially lift confidentiality on 28 July 2011, following the application of the Prosecutor – information about the existence of the indictment and the identities of those accused was disseminated through the media.

18. Second, I conclude that the efforts made by Lebanon, as detailed in the report submitted on 9 August 2011, have been reasonable, especially given the high level of confidentiality originally imposed by the Tribunal on the indictment and arrest warrants, as well as the circumstances on the ground. The Lebanese authorities have, *inter alia*, conducted surveillance, interviewed alleged associates, visited localities where the accused were believed to have connections, met with the mayors of those localities, and canvassed the neighbourhoods for people with information about the accused. I understand these procedures satisfy the requirements of Article 147 of the Lebanese Code of Criminal Procedure.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

19. It must be emphasised, however, that the report submitted by Lebanon on 9 August 2011 does not end Lebanon's continuing obligation to assist the Tribunal in searching for, serving, arresting, detaining and transferring the accused. While the procedures followed thus far are reasonable, at this point they are not sufficient. Article 15 of the Annex to UN Security Council Resolution 1757 (2007), and various Rules grounded in that provision, make clear that Lebanon has a continuing obligation to cooperate with the Tribunal in securing the presence of the accused for trial. Whether one reads the Annex as a proper agreement between Lebanon and the United Nations, or as part of UN Security Council Resolution 1757 taken under Chapter VII, Lebanon is bound to cooperate with the Tribunal.¹⁴ Such cooperation is an ongoing obligation that requires the State to actively pursue and fulfil the Tribunal's requests.¹⁵ In the case of arrest warrants and indictments, it is a duty that continues until the arrest of the accused, his detention and his transfer to the Tribunal's custody. It is even a duty that may outrun the lifespan of the Tribunal, a notion that can be inferred from the stand taken by the UN Security Council in Resolution 1966 (2010), when it established a Residual Mechanism for the *ad hoc* Tribunals for Rwanda and the former Yugoslavia.¹⁶ Under this notion, the obligation of States to cooperate with international criminal tribunals does not terminate with the winding down and the actual end of such tribunals, for States remain obliged to search for and detain the accused as well as execute other judicial orders or decisions. In that respect, Lebanon is no exception. It is bound to continue cooperating with the Tribunal for the search, arrest, detention and transfer of the four accused. Considering that its past efforts have borne no fruit, it is indeed obliged to even intensify its efforts in this respect. The continuing nature of the obligation to cooperate *a fortiori* applies to Lebanon, given that a possible trial *in absentia* may be followed, even

¹⁴ In its first annual report, the President of the International Criminal Tribunal for the former Yugoslavia ("ICTY") expanded on the obligation of States to cooperate and pointed out that:

[...] all States are under a strict obligation to cooperate with the Tribunal and to comply with its requests and orders. This obligation, which is forcefully laid down in article 29 of the statute, flows from the fact that the Tribunal has been established by a decision of the Security Council taken under Chapter VII of the Charter. That decision is, therefore, binding on all States by virtue of Article 25 of the Charter.

See *Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*, A/49/342, S/1994/1007 (1994).

¹⁵ This is made clear, for example, by the experience of the ICTY, which in its 2010 annual report described the still-continuing efforts by Serbia to locate the two remaining fugitives, as well as Serbia's regular reports to the Office of the Prosecutor on the progress of its efforts and that Office's recommendations on how to improve those efforts. All of these efforts were ultimately successful, as the last two fugitives were captured and transferred to the ICTY earlier this year. See *Seventeenth Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*, A/65/205, S/2010/413 (2010), at para. 70.

¹⁶ See S/RES/1966 (2010), at paras 8-10 (spelling out States' obligation to cooperate with the Residual Mechanism).



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

after termination of the Tribunal, by the request of one of the convicted persons to be retried in his or her presence, pursuant to Article 22(3) of the Tribunal's Statute.

20. I further take note of the provisions of Lebanon's Code of Criminal Procedure regarding the service of legal documents. Under Article 147 of that Code, service may be made "through a member of [the accused's] family, a domestic employee or any other [adult] person living in the same dwelling".¹⁷ Article 148 of that Code also provides for the procedure to be followed when it is not possible to serve the accused in person or through an adult living in the same residence. In such circumstances, the notice should be (i) posted at the accused's last known place of residence, (ii) communicated to the local mayor, and (iii) posted at the entrance of the judicial authority that ordered the notification. If the accused has no last known place of residence, it will suffice to post a copy of the document at the entrance of the judicial authority ordering the notification.¹⁸ None of these procedures would achieve the personal service required by Rule 76(B) of the Rules. However, they would increase the likelihood that the four accused receive actual notice of the charges against them. Therefore, taking into account the fact that these procedures mirror, to a certain extent, those for public advertisement before this Tribunal, and considering that the Lebanese authorities were prevented from pursuing these procedures from the outset because of the confidentiality imposed on the indictment and arrest warrants, the Lebanese authorities are now under an obligation to complete all procedures for service provided for under the laws of Lebanon. These obligations run parallel to, and in a way complement, the continuing obligation to search for, arrest, detain and transfer the accused.

21. Regarding other considerations arising from Rule 76(E), I note that efforts to serve the accused have reportedly so far been unsuccessful, and I record that I have consulted with the Pre-

¹⁷ An English translation of the Lebanese Code of Criminal Procedure is available on the Tribunal's website at http://www.stl-tsl.org/x/file/TheRegistry/Library/BackgroundDocuments/ApplicableLaw/Lebanese_Code_Criminal_Procedure_EN.pdf.

¹⁸ Article 148 of the Lebanese Code of Criminal Procedure provides:

If the person to be served with a document has no known place of residence or domicile, or if the process server does not find anyone who can be served with the document at his place of residence or domicile, he shall be notified through the posting of a copy of the document at the entrance to his last known place of residence; a second copy thereof shall be communicated to the local mayor, and a third copy shall be posted at the entrance to the judicial authority that ordered the notification. These measures shall be recorded by the process server on the original copy of the document, which shall be returned to the relevant authority.

If the person to be served with a document has no known last place of residence, it shall suffice for the process server to post a copy of the document at the entrance to the judicial authority that ordered the notification.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

Trial Judge on these matters.¹⁹ I further note that, on 12 August 2011, the Prosecutor filed a confidential and *ex parte* “Prosecution’s Request for Leave to File Submissions regarding the Efforts of the Lebanese Authorities to Serve Process on the Accused”, which I have taken into account.

22. Additional considerations also merit mention. While efforts to locate, serve and detain the accused must continue, it is unclear if current efforts will, by themselves, lead to a successful resolution of the matter. Further delay is not warranted. The acts charged in the indictment and their implications have had a serious impact on Lebanese society and have even been considered a threat to international peace and security by the UN Security Council.²⁰ A trial – even one conducted in the absence of the accused – is a requisite step towards restoring in the long run the social peace disturbed by these crimes, with their persistent adverse consequences for the whole fabric of Lebanese society. I recall my public request to the accused to participate in the trial, issued on 11 August 2011. I also reiterate, however, that the refusal of the accused to do so will not halt the (admittedly, sometimes slow but) always inexorable pursuit of justice.²¹ Every effort will be made to ensure the participation of the accused in their trial, and to that end, alternative means of service, including public advertisement in Lebanon and other countries, should now be pursued.

RULING

23. In light of the foregoing, and pursuant to the authority vested in me under Rule 76(E), I hereby order the service of process through alternative means. I request the Registrar to identify and effectuate these alternative means of service, within the ambit of his authority. They include, *but are not limited to*, the transmission of an advertisement “to the authorities of any relevant State or entity for publication in newspapers and/or for broadcast via radio, television and/or other media, including the internet”, pursuant to Rule 76 *bis* of the Rules. The relevant State being Lebanon, I request Lebanon to assist the Registrar with the speedy dissemination of the advertisement, in accordance with Rule 76 *bis*.

24. Notice to the accused of the charges against him is fundamental to the conduct of a fair trial. Thus there is a continuing and very strict obligation incumbent upon both the Tribunal and any

¹⁹ Memorandum by the President to the Pre-Trial Judge, 12 August 2011; Memorandum by the Pre-Trial Judge to the President, 15 August 2011, both confidential and *ex parte*

²⁰ S/RES/1636 (2005), S/RES/1644 (2005) and S/RES/1757 (2007).

²¹ See Statement of Judge Antonio Cassese, President of the Special Tribunal for Lebanon, 11 August 2011, <http://www.stf-tsl.org/sid/292>.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

relevant State or other authority to provide notice to the accused. In particular, as stated above, the Lebanese authorities are under a continuing obligation to search for, arrest, detain and transfer the accused. Until the accused are in the custody of the Tribunal, I request that Lebanon report to me *periodically* on all efforts undertaken to effect service.

25. Consequently,

PURSUANT TO Article 15 of the Annex to UN Security Council Resolution 1757 (2007), Article 10 of the Statute and Rules 76(E), 76 bis, and 82(A) of the Rules,

I hereby

REQUEST the Registrar to take all reasonable steps to effectuate the transmission of a form of advertisement to the authorities of Lebanon, in particular to the Public Prosecutor at the Court of Cassation;

ORDER the authorities of Lebanon to take all reasonable steps to provide notification to the public of the existence of an indictment and call upon the accused to surrender to the Tribunal or in any case to submit to its jurisdiction in accordance, *inter alia*, with the relevant Lebanese procedures;

REMIND Lebanon of its continuing obligation of cooperation and of the need for intensified efforts to search for, serve the indictment on, arrest, detain and transfer each of the accused;

REQUEST that Lebanon continue to submit a detailed report every month on all efforts undertaken to search for, serve the indictment on, arrest, detain and transfer each of the accused, including any assistance provided in accordance with Rule 76 bis; and

DIRECT Lebanon to submit the requested reports to the President, through the Registry, on the 19th of every month at noon, or the next business day should the 19th be a weekend or a holiday, until the indictment has been successfully served on each of the accused and the accused are in the custody of the Tribunal.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

Furthermore, I hereby

REQUEST the Registrar to consider other means of disseminating the indictment in Lebanon as well as in other countries, if appropriate, and of calling upon the accused to submit to the Tribunal's jurisdiction.

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

Filed this 18th day of August 2011,

Leidschendam, The Netherlands

Judge Antonio Cassese

President

