



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**THE PRESIDENT**

**Case No.:** STL-13-04/I/PRES  
**Before:** Judge David Baragwanath, President  
**Registrar:** Mr Daryl Mundis  
**Date:** 10 October 2013  
**Original language:** English  
**Classification:** Public

**THE PROSECUTOR**

v.

**HASSAN HABIB MERHI**

---

**ORDER PURSUANT TO RULE 76 (E)**  
*with confidential and ex parte annexes*

---

**Prosecutor:**  
Mr Norman Farrell

**Head of Defence Office:**  
Mr François Roux

**The authorities of the Lebanese Republic**



## I INTRODUCTION

1. In my capacity as President of the Special Tribunal for Lebanon (“STL” or “Tribunal”), I now order that the service of process in *Prosecutor v. Merhi*, Case No. STL-13-04, 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”). Such order may be made where the President establishes that reasonable attempts have been made to serve the process. This Order represents the second time that Rule 76 (E) has been invoked in proceedings before the Tribunal.<sup>1</sup>

## II PROCEDURAL BACKGROUND

2. On 31 July 2013, the Pre-Trial Judge confirmed an indictment and issued an arrest warrant against Mr Hassan Habib Merhi (“Mr Merhi” or “the Accused”) in relation to an alleged bombing in Beirut on 14 February 2005.<sup>2</sup> At the Prosecutor’s request, the Pre-Trial Judge ordered that the indictment and his decision confirming the indictment remain confidential, in accordance with Rule 74 (Non-Disclosure of Indictment) of the Rules.<sup>3</sup>

3. On 6 August 2013, pursuant to Rules 76 (A) and 79 (D) of the Rules, the Tribunal’s Registrar transmitted the indictment, arrest warrant, and associated material to Lebanon, the state of nationality and last known place of residence of the Accused.<sup>4</sup>

4. The arrest warrant against Mr Merhi specifically requested the Lebanese authorities “to search for and to arrest, in any place where he might be found in the territory of the Lebanese Republic, to detain and transfer to the Headquarters of the Tribunal [Mr Merhi]”.<sup>5</sup> The Lebanese

---

<sup>1</sup> Rule 76(E) of the Rules was first utilized by former STL President Antonio Cassese on 18 August 2011. See STL, *Prosecutor v. Ayyash et al.*, STL-11-01/I/PRES, Order Pursuant to Rule 76 (E), 18 August 2011.

<sup>2</sup> STL, *Prosecutor v. Merhi*, STL-13-04/I/PTJ, Redacted Version of the Decision Relating to the Examination of the Indictment of 5 June 2013 Issued Against Mr Hassan Habib Merhi of 31 July 2013, Confidential, 31 July 2013; STL, *Prosecutor v. Merhi*, STL-13-04/I/PTJ, Warrant to Arrest Mr Hassan Habib Merhi and Order for Transfer and Detention, Confidential, 31 July 2013.

<sup>3</sup> Rule 74(A) 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 Indictment) that the indictment be made public once it is confirmed.

<sup>4</sup> Rule 76(A) states: “The indictment, certified in accordance with Rule 68, shall be formally provided 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.” Rule 79(D) provides: “Subject to any order of the Pre-Trial Judge or Chamber, the Registrar may transmit a certified copy of a warrant of arrest or, in the case of an accused in detention, a transfer order to (i) the person or authorities to whom it is addressed, including 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; (ii) an international body, including INTERPOL; or (iii) the Prosecutor on such terms as the Pre-Trial Judge or Chamber may determine.”

<sup>5</sup> STL, *Prosecutor v. Merhi*, STL-13-04/I/PTJ, Warrant to Arrest Mr Hassan Habib Merhi and Order for Transfer and Detention, Confidential, 31 July 2013, Disposition.

authorities were obliged to “act promptly and with all due diligence to ensure the proper and effective execution” of the arrest warrant, under Rule 82 (Execution of Summonses, Warrants, Orders and Requests) of the Rules.<sup>6</sup>

5. The Registrar requested that the Lebanese authorities effect personal service of the indictment on Mr Merhi. Rule 76 (B) of the Rules clarifies that “[p]ersonal service of an indictment on the accused is effected by giving the accused a copy of the indictment, together with the summons to appear or the arrest warrant”.

6. The Registrar specifically requested Lebanon’s designated representative—the Acting Prosecutor General of the Lebanese Court of cassation, Judge Samir Hammoud (“Prosecutor General”)—to report to the STL President (through the Registrar) by 5 September 2013 in the event that the Lebanese authorities were unable to execute the arrest warrant.<sup>7</sup>

7. The Prosecutor General has submitted a series of reports (Part V below) advising that the Lebanese authorities have been unable to execute the arrest warrant.

### **III APPLICABLE LAW**

8. Rule 76 (E) provides:

*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.*

(Emphases added)

9. The “procedures of public advertisement” referred to in Rule 76 (E) are elaborated in Rule 76 *bis* (Advertisement of the Indictment), which states:

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

---

<sup>6</sup> See also Article 15 of the Annex to UN Security Council resolution 1757 (2007). Article 15(2) states that the Lebanese Government “shall comply without undue delay with any request for assistance by the Special Tribunal or an order issued by the Chambers, including, but not limited to, (a) Identification and location of persons; (b) Service of documents; (c) Arrest or detention of persons; (d) Transfer of an indictee to the Tribunal.”

<sup>7</sup> The Registrar’s request accorded with Rule 76 (C) of the Rules, which states that “Lebanon [...] must inform the President of the measures taken [to effect personal service of the indictment on the accused] as soon as possible and no later than 30 days” after the indictment was transmitted to Lebanon.

advertisement shall invite any person with information as to the whereabouts of the accused to communicate that information to the Tribunal.

10. If within 30 days of the advertisement contemplated by Rule 76 *bis* the accused is not under the Tribunal's authority, under Rule 105 *bis* the Pre-Trial Judge shall ask the Trial Chamber to initiate proceedings *in absentia*. Article 22 (1) (c) of the Statute of the Tribunal calls for such proceedings if the accused:

Has absconded or otherwise cannot be found and all reasonable steps have been taken to secure his or her appearance before the Tribunal and to inform him or her of the charges confirmed by the Pre-Trial Judge.

It is mirrored by Rule 106 (A) (iii).

11. There follow my reasons for determining that the requirements of Rule 76 (E) have been fulfilled and for ordering the service of process by alternative means.

#### **IV PREVIOUS APPLICATION OF RULE 76 BIS**

12. The indictment confirmed by the Pre-Trial Judge against Mr Merhi relates to the alleged bombing in Beirut of 14 February 2005, and follows an indictment against four other Accused, Messrs Ayyash, Badreddine, Oneissi and Sabra ("the four Accused"), which relates to the same alleged bombing. It was confirmed by the Pre-Trial Judge on 28 June 2011. Then followed attempts by the former Prosecutor General to serve the indictment and arrest warrants upon the four Accused. On 11 August 2011, President Cassese, then President of the Tribunal, issued a public statement in the form of an open letter to the four Accused informing them, their families and their close associates, as well as the Lebanese public, in general terms of the ambit of Rules 104 and 105 as to the modes of appearance before the Tribunal, which are either in person or, subject to judicial authorization, by video-conference if represented by counsel present at the hearings. Following an order by the Pre-Trial Judge lifting confidentiality of the indictment, on 18 August 2011 the President issued an order under Rule 76 (E) finding that reasonable attempts had been made to serve the indictment and ordering that service be effected in an alternative manner, including procedures of public advertisement.

13. In the case of the indictment against the four Accused, the Trial Chamber being satisfied as to the conditions of Article 22 (1) (c) of the Statute, on 1 February 2011 made an order for trial against them *in absentia*. On 1 November 2011 the Appeals Chamber upheld that order, holding that:

We have concluded that Article 22 of the Statute and Rule 106 of the Rules, interpreted in light of the international human rights standards, require that *in absentia* trials are possible only where i) reasonable efforts have been taken to notify the accused personally; ii) the evidence as to notification satisfies the Trial Chamber that the accused actually knew of the proceedings against them; and that iii) it does so with such degree of specificity that the accused's absence means they must have elected not to attend the hearing and therefore have waived their right to be present.<sup>8</sup>

14. Since then, the successive Prosecutors General have duly reported to me each month as to their continuing efforts to arrest the four Accused. The latest report is dated 17 September 2013.

### **V THE STEPS TAKEN BY THE LEBANESE AUTHORITIES**

15. On 6 September 2013, the Prosecutor General submitted to me his initial report on the measures taken to serve the indictment and arrest warrant upon Mr Merhi.<sup>9</sup> Attached to the report were records prepared by the Lebanese Judicial Police. The Judicial Police recounted their efforts to locate the Accused. Specifically, they informed me that:

- a. They promptly prepared an investigation and search notice against Mr Merhi.
- b. They reviewed and investigated 12 addresses associated with Mr Merhi.
- c. On several occasions they attempted to visit Mr Merhi's properties. However, as a result of security considerations in the area, notably those arising from a car bombing on 9 July 2013 and then a large scale explosion on 15 August 2013, which killed many citizens and injured many more, the situation did not allow the Judicial Police to enter the area.

16. The Judicial Police concluded that as of 10.00am on 6 September 2013, they had been unable to find Mr Merhi in order to arrest him and execute the arrest warrant issued against him.

17. On 16 September 2013, and after requesting some information from the Pre-Trial Judge, the Prosecutor and the Registrar, I sought additional clarifications from the Prosecutor General.<sup>10</sup>

18. By further reports (of 24 September 2013,<sup>11</sup> 26 September 2013,<sup>12</sup> 3 October 2013<sup>13</sup> and 4 October 2013<sup>14</sup> and subsequent oral advice) the Prosecutor General clarified certain issues, providing the following information:

---

<sup>8</sup> STL, *Prosecutor v Ayyash et al.*, STL-11-01/PT/AC/AR126.1, *Corrected Version of Decision on Defence Appeals Against Trial Chamber's Decision on Reconsideration of the Trial In Absentia Decision*, 1 November 2012, para. 31

<sup>9</sup> Annex A.

<sup>10</sup> Annex B.

- a. Mr Merhi is still registered as being alive.<sup>15</sup>
- b. The first attempts to locate Mr Merhi were made even before he was indicted, as a possible witness for the *Ayyash et al.* case. Such attempts included visiting the apartment thought to be the last place of residence of Mr Merhi on a number of occasions and conducting other investigations, including interviewing a witness. But he was not to be found.<sup>16</sup>
- c. Despite repeated visits to the location of Mr Merhi's properties, for security reasons the Central Investigations section has so far been unable to find Mr Merhi. Because of the security situation they have been unable to repeat the visits that were made before he was indicted.<sup>17</sup>
- d. There were unsuccessful requests for information from four mayors ("*mukhtars*") of the areas containing the properties in the name of Mr Merhi.<sup>18</sup>
- e. An Individual Personal Status Extract issued by the Beirut Personal Status Department records the name of Mr Merhi.<sup>19</sup>
- f. A Family Individual Personal Status Extract issued by the Beirut Personal Status Department records the names of Mr Merhi and his immediate family.<sup>20</sup>
- g. The Electoral List (Males) of Zqaq-EI-Blat records the name of Mr Merhi for the electoral period 2013-2014.<sup>21</sup>
- h. The Vehicle Registration Service does not record any car in the name of Mr Merhi.<sup>22</sup>
- i. The Acting General Director for Real Estate Affairs confirmed that Mr Merhi owns certain real estate.<sup>23</sup>

---

<sup>11</sup> Annex C.  
<sup>12</sup> Annex D.  
<sup>13</sup> Annex E.  
<sup>14</sup> Annex F.  
<sup>15</sup> Annex D.  
<sup>16</sup> Annex E.  
<sup>17</sup> Annexes C and E  
<sup>18</sup> Annex C.  
<sup>19</sup> Annex D.  
<sup>20</sup> Annex D.  
<sup>21</sup> Annex D.  
<sup>22</sup> Annex C.  
<sup>23</sup> Annex C.

- j. The Archives and Documents Bureau in the Directorate General of Internal Security Forces has no record in relation to Mr Merhi, meaning, amongst other things, that Mr Merhi has not been a suspect or an accused in previous criminal proceedings in Lebanon.<sup>24</sup>
- k. Mr Merhi is not registered with the National Social Security Fund.<sup>25</sup>
- l. The Ministry of Labour has no record of Mr Merhi applying to hire a housemaid.<sup>26</sup>
- m. Mr Merhi's official emigration (exit and entry) records indicate that he is now in Lebanon, or at least has not officially left the country.<sup>27</sup>

19. Because of the sensitivity of certain activities undertaken, I will not detail publicly all of my inquiries and the answers received. The correspondence between the Prosecutor General and myself and a report on the security conditions in Beirut are attached as confidential and *ex parte* appendices to this Order.

20. On 3 October 2013, the Prosecutor General reported on measures undertaken to locate Mr Merhi before he was formally indicted by the Tribunal, upon requests to interview him as a witness.<sup>28</sup> He added that he has ordered that the search for Mr Merhi continue.<sup>29</sup>

## **VI CONSULTATION WITH PRE-TRIAL JUDGE**

21. As required by Rule 76 (E), I have consulted the Pre-Trial Judge before making the present decision.

## **VII STATEMENT OF REASONS**

22. Rule 76 (E) hinges upon whether reasonable attempts have been made to serve the indictment and the warrant of arrest on an accused.<sup>30</sup> This legal standard must be considered in light of the fact that trial *in absentia* is a carefully limited alternative to trial in the presence of the accused, which the Statute and Rules both regard as the presumptive procedure. That is of course because trial *in absentia* is a fall-back, justifiable only in defined circumstances when trial of the accused present in person is not practicable. Indeed it is only because Article 22 (3) of the Statute guarantees a retrial

---

<sup>24</sup> Annex C.

<sup>25</sup> Annex C.

<sup>26</sup> Annex C.

<sup>27</sup> Annex F.

<sup>28</sup> Annex E.

<sup>29</sup> Annex E.

<sup>30</sup> STL, *Prosecutor v Ayyash et al*, STL-11-011/PRES, Order Pursuant to Rule 76 (E), 18 August 2011, para.14.

to a person convicted *in absentia* that the latter procedure is permitted at all. The making of reasonable attempts to achieve personal service (Rule 76 (E)) is the first of the series of conditions, followed by others including public advertisement under Rule 76 *bis* and compliance with 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), which must be satisfied to permit trial *in absentia*.

23. Those responsible for making such reasonable attempts to achieve personal service are both the Tribunal—which must undoubtedly take measures to ensure that once an arrest warrant is issued the accused is properly sought and, if possible, apprehended—and the domestic authorities, who act at the behest of the Tribunal to implement its warrants.

24. When he authorized alternative service of the indictment against the four Accused, President Cassese explained that “the President must ensure that *all* reasonable efforts have been made to provide [the] accused with notice of the charges against him”, before moving to a decision on a trial *in absentia*.<sup>31</sup> Noting that it is in the best interests of the Tribunal as well as the accused for each accused to be present at trial and to participate fully in his or her own defence,<sup>32</sup> President Cassese cautioned that the requirement “‘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.”<sup>33</sup>

25. Rule 76 (E) in fact requires only “that reasonable [not “*all* reasonable”] attempts have been made to serve the indictment”, and the formula of Rule 106 (A) (iii) “all reasonable steps have been taken to secure his appearance before the Tribunal” applies only to the subsequent decision of the Trial Chamber.

26. In its decision to commence *in absentia* proceedings in the *Ayyash et al.* case,<sup>34</sup> the Trial Chamber analysed the phrase “all reasonable steps” under Rule 106 (A) (iii) of the Rules. Given the degree of similarity between “all reasonable steps” under Rule 106 (A) (iii) and “reasonable attempts” under Rule 76 (E), the Trial Chamber’s advice on the meaning of “all reasonable steps” is valuable. The Trial Chamber held:

The words “all reasonable steps” are undefined in the Statute and Rules; the formulation is incapable of precise definition, and the Trial Chamber will not attempt one. A definition of

---

<sup>31</sup> *Id.* at para. 15.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Id.* at para. 16.

<sup>34</sup> STL, *Prosecutor v. Ayyash et al.*, STL-11-011/TC, Decision to Hold Trial *In Absentia*, 1 February 2012.



“all reasonable steps” cannot exist in customary international law; it must be determined according to the circumstances particular to each individual situation, meaning that the question can be determined, not in the abstract, but rather by examining the totality of the prevailing circumstances.<sup>35</sup>

27. The difference between the wording of Rule 76 (E) (finding “that reasonable attempts have been made to serve ... the accused”) and that of Rule 106 (A) (“all reasonable steps have been taken to secure [the accused’s] appearance before the Tribunal”) stems from the different goals served by each of these Rules. The former Rule requires attempts to serve the accused in person before measures are taken to serve him in an alternative manner. It would not make sense to try to serve the accused through alternative means if by reasonable efforts he can be reached and served personally.

28. The latter provision, Rule 106 (A) (iii), addresses *inter alia* the fundamental right of the accused to be informed of the charges against him before an order to proceed *in absentia* can be made. In such cases, the Trial Chamber must determine whether all reasonable steps have been taken to ensure that the accused is aware of the charges against him, and that he is therefore wilfully absconding from justice. Anything less would risk infringing the accused’s right to be present.

29. Within this context, I interpret Rule 76 (E) as requiring attempts to serve the indictment which in the “totality of the prevailing circumstances”<sup>36</sup> it is reasonable to require before permitting the *in absentia* procedure to be taken to the next stage.

30. Having consulted with the Pre-Trial Judge and applying that test in the light of the circumstances outlined below, I am satisfied that this condition has been established: reasonable attempts have been made by the Tribunal and the Lebanese authorities to serve the indictment and arrest warrant on the Accused.

31. First, the Tribunal has made reasonable efforts to perform its obligations. The Registrar duly transmitted the indictment and arrest warrant to the Prosecutor General; the Tribunal maintained the confidentiality of the indictment to give the Lebanese authorities maximal opportunities to apprehend the Accused; and the Pre-Trial Judge took additional steps to locate Mr Merhi.<sup>37</sup>

---

<sup>35</sup> *Id.* at para. 28.

<sup>36</sup> *Ibid.*

<sup>37</sup> Annex H.

32. Second, as reported by the Prosecutor General, the Judicial Police have undertaken a variety of activities to locate, arrest, and serve the Accused. The reasonableness of such attempts is to be measured against the options reasonably available to them. These activities included:

- a. Attempting to locate the Accused by visits to his last known places of residence. However, despite the efforts of the Judicial Police, the unstable security situation in Lebanon and a host of practical challenges have recently prevented the Lebanese authorities from gaining access to such places of residence and from locating the Accused.
- b. Seeking information about the Accused and his whereabouts from persons who might have knowledge. These efforts were unsuccessful.
- c. There were attempts made to locate Mr Merhi before he was indicted. While Mr Merhi was not sought as an accused at the time, but simply as a witness, I consider that these attempts, and their lack of success, strengthen the conclusion that the Lebanese authorities are unable to locate him.

33. Third, an overarching background consideration of obvious significance is the present tense situation in Beirut and throughout the country. It may be reflected in the fact that despite the publicity attending the processes resulting in order for trial *in absentia* of the indictment of the four Accused and the continued efforts of the Prosecutor General to locate them, to date the authorities have been unable to locate and arrest them. These are pointers both to real difficulty in serving those charged with the attack of 14 February 2005, and to a likelihood that the failure to find and serve Mr Merhi is not due to lack of reasonable attempts to locate him.

34. Since the Prosecutor General had his staff first attempt to locate the Accused in June 2013, the security situation in Beirut and elsewhere in Lebanon has deteriorated markedly. The places of residence known to the Lebanese authorities for Mr Merhi are in an area of Beirut which has recently been subject to grave breaches of security resulting from the bombings. Following the car bombing in southern Beirut on 9 July 2013, and the further bombing there in August attended by major loss of life and many injuries, increased security measures were instituted to prevent further attacks. Despite vigorous steps taken by the Lebanese authorities to respond to such breaches, I am satisfied that unsettled conditions in the area inhibit them from doing more in the present circumstances.<sup>38</sup>

---

<sup>38</sup> Annex G.

35. Overall, I have concluded it is established that when viewed against this backdrop, as well as in the light of the previous unsuccessful attempts made when Mr Merhi was sought to be interviewed as a witness, taken as a whole the attempts thus far made by the Tribunal, the Prosecutor General, and Judicial Police to serve the indictment and the warrant of arrest are reasonable.

36. I therefore conclude that the standard required under Rule 76 (E) of the Rules has been met.

37. Furthermore, the Prosecutor-General has not indicated to me that service of process in an alternative manner would prejudice the ongoing investigations and attempts. In these circumstances I see no reason why the power to order that service of process on Mr Merhi be effected through alternative means should not be exercised and order accordingly.

### **VIII CONCLUSION**

38. I now order that service of the indictment be effected by procedures of public advertisement. I request the Registrar to identify and effectuate these alternative means of service. 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 prompt dissemination of the advertisement, in accordance with Rule 76 *bis*. I further ask the Lebanese authorities to undertake all procedures for service envisioned under Lebanese law (including, but not limited to, Articles 147 and 148 of Lebanon’s Code of Criminal Procedure).<sup>39</sup>

39. I am grateful for the efforts of the Prosecutor General and Judicial Police to date. The Prosecutor General’s monthly reports satisfy me that he and his officers fully understand and continue to seek to discharge Lebanon’s obligation to search for, serve, arrest, detain and transfer the Accused to the seat of the Tribunal, which is a continuing one.<sup>40</sup> Even so, in the light of the

---

<sup>39</sup> Under Article 147 of the Lebanese Code of Criminal Procedure, 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.” 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. English and French translations of the Lebanese Code of Criminal Procedure are available on the Tribunal’s website at <http://www.stl-tsl.org/en/documents/relevant-law-and-case-law/applicable-law/lebanese-code-of-criminal-procedure>.

<sup>40</sup> See, e.g., Article 15 of the Annex to UN Security Council resolution 1757 (2007), and various Rules grounded in that provision.

absence of Mr Merhi, and the persistent absence of Messrs Ayyash, Badreddine, Oneissi and Sabra since the confirmation of the indictment against them in June 2011, I respectfully suggest that it may be time for the Lebanese authorities to reinvigorate and intensify their efforts to apprehend all five Accused.<sup>41</sup> I note that the State of Lebanon is responsible for continuing to search for the Accused even if a decision is taken in future to proceed with trial in the absence of Mr Merhi. In particular, as soon as circumstances permit, the Lebanese authorities should continue to search for the five Accused by inspecting possible places of residence, interviewing witnesses, and seeking records of their movements and transactions.

---

<sup>41</sup> See also Fourth Annual Report of the Special Tribunal for Lebanon (2012-2013), 1 March 2013, pp. 8, 40.

**DISPOSITION****FOR THESE REASONS;**

**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**

**FIND** that reasonable attempts have been made to serve the indictment, arrest warrant and associated material on Hassan Habib Merhi for the purpose of Rule 76 (E);

**Having consulted the Pre-Trial Judge,**

**ORDER** that service of process, namely the indictment, be effected by procedures of public advertisement;

**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 Prosecutor General at the Lebanese Court of cassation;

**ORDER** the authorities of Lebanon to take all reasonable steps to provide notification to the public of the existence of the 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;

**ACKNOWLEDGE** that the Prosecutor General and the Judicial Police are continuing to search for, serve the indictment on, arrest, detain and transfer Hassan Habib Merhi to the seat of the Tribunal;

**REMINDE** Lebanon of its continuing obligation of cooperation and of the need for novel and intensified efforts to search for, serve the indictment on, arrest, detain and transfer the Accused to the seat of the Tribunal;

**REQUEST** Lebanon to submit by 7 November 2013 to the President, through the Registry, a detailed report on all efforts undertaken to search for, serve the indictment on, arrest, detain and transfer Hassan Habib Merhi to the seat of the Tribunal, including any assistance provided in accordance with Rule 76 *bis* and the present order;

**REQUEST** Lebanon to submit to the President, through the Registry, after November 2013 a consolidated report on all Accused being sought by the Tribunal, and to do so on the 19th of every month, 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 five Accused and all five Accused are in the custody of the Tribunal.

**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 Arabic, English and French, the English version being authoritative.

Dated 10 October 2013,  
Leidschendam, the Netherlands



---

Judge David Baragwanath  
President

