SPECIAL TRIBUNAL FOR LEBANON المحكمة الخاصة بلبنان TRIBUNAL SPÉCIAL POUR LE LIBAN

THE TRIAL CHAMBER

Case No.:	**STL-11-01/PT/TC**
Before:	**Judge David Re, Presiding** **Judge Janet Nosworthy** **Judge Micheline Braidy** **Judge Walid Akoum, Alternate Judge**
Registrar:	**Mr. Daryl Mundis, Registrar**
Date:	**31 October 2013**
Original language:	**English**
Type of document:	**Public**

THE PROSECUTOR

v.

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

ORDERS FOR TRIAL PREPARATION FOLLOWING THE PRE-TRIAL CONFERENCE OF 29 OCTOBER 2013

Office of the Prosecutor:
Mr. Norman Farrell

Victims' Legal Representative:
Mr. Peter Haynes

Counsel for Mr. Salim Jamil Ayyash:
Mr. Eugene O'Sullivan
Mr. Emile Aoun

Counsel for Mr. Mustafa Amine Badreddine:
Mr. Antoine Korkmaz
Mr. John Jones

Counsel for Mr. Hussein Hassan Oneissi:
Mr. Vincent Courcelle-Labrousse
Mr. Yasser Hassan

Counsel for Mr. Assad Hassan Sabra:
Mr. David Young
Mr. Guénaël Mettraux

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1. The Trial Chamber became seized with the case-file on Friday 25 October 2013,[1] received the case-file on Monday 28 October 2013 and held its first pre-trial conference on 29 October 2013, at which it made several procedural orders. Several further orders relating to trial preparation follow:

A. Filing of witness lists

2. At the pre-trial conference of 29 October 2013, counsel for the Prosecution stated that 'Chronologically, the first section of the Prosecution's case will focus on what happened in and around the area of the explosion on 14th February 2005', and that it would file a list of witnesses in mid-November.[2] The Trial Chamber made no order at the pre-trial conference as to when the list should be filed but considers that such an order would assist trial preparation.

Order

The Trial Chamber orders the Prosecution to file its list of witnesses related to the first section of its case by Wednesday 20 November 2013.

B. Filing of Prosecution's applications to call witnesses under Rules 155 and 156

3. At the pre-trial conference of 29 October 2013, counsel for the Prosecution stated that it intended to present the evidence of around 170 witnesses in respect of the 'first section' of its case, using Rules 155 and 156 of the Rules of Procedure and Evidence (admitting written statements into evidence in lieu of oral testimony or in lieu of examination in chief).[3] The Trial Chamber then ordered the Prosecution to file its applications by Friday 15 November 2013.[4] The limited time between now and the commencement of trial on 13 January 2014 requires the Trial Chamber to reduce the time specified in Rule 8 for the Defence to respond to the applications. Counsel for the Defence have long been informed of the Prosecution's witness list and of those witnesses it intends to call under Rules 155 and 156. Consequently,

[1] TSL, *Le Procureur c. Ayyash, Badreddine, Oneissi et Sabra*, Affaire n° STL-11-01/PT/TC, Rapport du Juge de la mise en état établi conformément à l'article 95, paragraphe A) du Règlement de procédure et de prevue, confidential, 25 octobre 2013.
[2] STL-11-01/PT/TC, Pre-Trial Conference, 29 October 2013, Transcript, pp. 8-9.
[3] Transcript, p. 14.
[4] Transcript, pp. 30-31.

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in the Trial Chamber's view, Defence counsel will suffer no prejudice from shortening the time period for their responses.

Order

The Trial Chamber orders the Defence to respond to the Prosecution's applications under Rules 155 and 156 by Wednesday 27 November 2013. Any replies are to be filed by Friday 29 November 2013.

C. Filing of Prosecution's evidence in relation to connected cases

4. On 8 March 2013, the Trial Chamber issued its 'Decision on Defence Motion to Strike out part of the Prosecutor's Pre-Trial Brief', inviting the Defence to file any substantive submissions relating to the admissibility of the evidence referred to in section X of the Prosecutor's pre-trial brief. That part of the pre-trial brief relates to the Prosecution's intention to call what it categorized as 'evidence of a consistent pattern of conduct' against some of the Accused, by leading evidence relating to the attacks in connected cases over which the Special Tribunal has assumed jurisdiction.

5. Rule 146 provides the manner of presentation of evidence at trial and, in particular, that the Parties present their own evidence at trial. To enable the Trial Chamber to determine this matter in a timely manner and to assist the trial preparation of the Parties, the Trial Chamber considers that the Prosecution should file any application to lead this evidence before the trial commences. The Trial Chamber expects the Prosecution to annex to its application any evidence that it intends to lead at trial in respect of this part of its case.

Order

The Trial Chamber orders the Prosecution to file any application to lead the evidence referred to in section X of its pre-trial brief by Wednesday 3 December 2013.

D. Application to file a revised redacted version of the amended indictment

6. On 31 October 2013, the Prosecution filed a 'Request for Authorisation to File the Prosecution Public Redacted Amended Indictment with Revised Redactions', to publish the

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name of Hassan Habib Merhi which was redacted from the public version of the amended indictment. As Mr. Merhi was indicted on 31 July 2013 and the indictment was made public on 10 October 2013,[5] no reason exists for this redaction to remain in the amended indictment.

Order

The Trial Chamber orders that Annex A of the Prosecution Request be made public.

E. Request for Reconsideration by counsel for Mr. Sabra filed 21 October 2013

7. On 25 October 2013, the Pre-Trial Judge forwarded to the Trial Chamber the case-file under Rule 95. The case-file included twelve matters awaiting his decision, one of which was 'Request for Reconsideration of the Decision on Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Further Request for Effective Disclosure of Scanned Documents', filed 21 October 2013. Rule 140 provides that a 'Chamber may, *proprio motu*, or at the request of a Party with leave of the Presiding Judge, reconsider a decision'. The Pre-Trial Judge is *functus officio* and now lacks the jurisdiction to reconsider this decision.

8. Rule 140 appears only to contemplate a Chamber reconsidering its *own* decision. Decisions of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda on the power of a chamber to reconsider decisions are consistent with this interpretation.[6] The Trial Chamber is likewise not of the view that this Rule permits it to reconsider the decision of another chamber, here the Pre-Trial Judge's. The Trial Chamber will therefore not attempt *proprio motu* to reconsider this decision of the Pre-Trial Judge.

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[5] STL, *Prosecutor v. Merhi*, STL-13-04/I/PTJ, Order on Partially Lifting the Confidentiality of the Indictment against Mr. Hassan Habib Merhi, 10 October 2013.

[6] See, e.g., *Prosecutor v. Stanislav Galić*, IT-98-29-A, Decision on Defence's Request for Reconsideration, 16 July 2004, p. 2; *Prosecutor v. Vojislav Šešelj*, IT-03-67-AR72.1, Decision on Motion for Reconsideration of the 'Decision on the Interlocutory Appeal Concerning Jurisdiction' Dated 31 August 2004, 15 June 2006, para. 9; *Prosecutor v. Pavle Strugar*, IT-01-42-Misc.1, Decision on Strugar's Request to Reopen Appeal Proceedings, 7 June 2007, paras 23-25; See also, *Prosecutor v. Jadranko Prlić*, IT-04-74-T, Decision on the Stojić Defence Request for Reconsideration, 4 November 2008, p. 2; *Prosecutor v. Théoneste Bagosora*, ICTR-98-41-I, Decision on Defence Motion for Reconsideration of the Decisions Rendered on 29 November 2001 and 5 December 2001 and for a Declaration of Lack of Jurisdiction, 28 March 2002, para. 21.

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

Leidschendam
The Netherlands
31 October 2013

Judge David Re, Presiding

Judge Janet Nosworthy

Judge Micheline Braidy

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