

**THE TRIAL CHAMBER**

Case No.: STL-13-04/PT/TC

Before: Judge David Re, Presiding
Judge Janet Nosworthy
Judge Micheline Braidy
Judge Walid Akoum, Alternate Judge

Registrar: Mr. Daryl Mundis

Date: 10 January 2014

Original language: English

Classification: Public

PROSECUTOR

v.

HASSAN HABIB MERHI

SCHEDULING ORDER

Office of the Prosecutor:
Mr. Norman Farrell

Counsel for Mr. Hassan Habib Merhi:
Mr. Mohamed Aouini



1. Two separate cases in respect of the same events that occurred on 14 February 2005 are currently before the Special Tribunal—that of *Prosecutor v. Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi, and Assad Hassan Sabra*, scheduled to commence trial on 16 January 2014¹—and that of Hassan Habib Merhi, who was separately indicted on 31 July 2013. The *Ayyash* case is before the Trial Chamber and Mr. Merhi’s case remains before the Pre-Trial Judge, but the Trial Chamber is now seised of the possible joinder of the two cases.
2. The short procedural history is that on 28 June 2011 the Pre-Trial Judge confirmed an indictment in the *Ayyash* case.² Two years later, on 5 June 2013, the Prosecutor submitted another indictment to the Pre-Trial Judge, but one alleging Mr. Merhi’s involvement in the same events and crimes as those charged in the *Ayyash* case.³ On 31 July 2013, the Pre-Trial Judge confirmed a sealed indictment against Mr. Merhi.⁴
3. The Pre-Trial Judge made the indictment public on 10 October 2013,⁵ after considering an order issued by the President of the Special Tribunal determining that reasonable efforts had been made by the Tribunal and the Lebanese authorities to apprehend Mr. Merhi.⁶
4. Just over six weeks later, on 25 November 2013, the Pre-Trial Judge seised the Trial Chamber with determining whether to try Mr. Merhi *in absentia*.⁷ On 20 December 2013, the Trial Chamber issued a decision to try Mr. Merhi *in absentia*,⁸ and the Head of the Defence Office appointed counsel for Mr. Merhi.⁹
5. On 18 December 2013, the Prosecution requested the Pre-Trial Judge to refer to the Trial Chamber, under Rule 89 (E) of the Rules of Procedure and Evidence, the possible joinder of the

¹ STL, *Prosecutor v. Salim Jamil Ayyash, Mustafa Amina Badreddine, Hussein Hassan Oneissi and Assad Hassan Sabra*, STL-11-01/PT/TC, Scheduling Order, 10 December 2013.

² STL-11-01/I/PTJ, Decision relating to the examination of the indictment of 10 June 2011 issued against Mr. Salim Jamil Ayyash, Mr. Mustafa Amina Badreddine, Mr. Hussein Hassan Oneissi & Mr. Assad Hassan Sabra, 28 June 2011.

³ *Prosecutor v. Hassan Habib Merhi*, STL-13-04/I/PTJ, Prosecution’s Submission of an Indictment for Confirmation and Order to Keep this Filing and its Annexes, Confidential and *Ex Parte*; and Motion for an Arrest Warrant, Order for Transfer and Detention; and Order for Non-Disclosure, Confidential and *Ex Parte*, 5 June 2013.

⁴ STL-13-04/I/PTJ, Decision relating to the Examination of the Indictment of 5 June 2013 Issued against Mr. Hassan Habib Merhi, Confidential, 31 July 2013; Public Redacted Version dated 11 October 2013.

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

⁶ STL-13-04/I/PRES, Order pursuant to Rule 76 (E), 10 October 2013.

⁷ STL-13-04/I/PTJ, Order to Seize the Trial Chamber Pursuant to Rule 105bis(A) of the Rules of Procedure and Evidence in Order to Determine Whether to Initiate Proceedings *In Absentia*, 25 November 2013.

⁸ STL-13-04/I/TC, Decision to Hold Trial *In Absentia*, 20 December 2013.

⁹ STL-13-04/I/PTJ, Assignment of a Counsel for the *In Absentia* Proceedings Held Pursuant to Rule 106 of the Rules, 20 December 2013.

two cases—Mr. Merhi's and that of Mr. Ayyash, Mr. Badreddine, Mr. Oneissi, and Mr. Sabra. On 23 December 2013, at the invitation of the Pre-Trial Judge, the Head of the Defence Office made submissions on the possible referral of this matter to the Trial Chamber.¹⁰

6. On 24 December 2013, the Pre-Trial Judge ordered the Prosecution to immediately disclose to counsel for Mr. Merhi all documents falling within its disclosure obligations in Rule 110 (A)—namely, copies of the material that accompanied the indictment when its confirmation was sought, and the statements of witnesses it intends to call at trial. The Prosecution was also ordered to file, by 8 January 2014, the materials required by Rule 91 (G)—these include its pre-trial brief and its witness and exhibit lists at trial.¹¹
7. On 30 December 2013, the Prosecution also filed an application to the Trial Chamber in the *Ayyash* case to join the two cases.¹² On 2 January 2014, the Pre-Trial Judge referred to the Trial Chamber—as requested by the Prosecution—the possible joinder of the two cases.¹³
8. The Trial Chamber will hold a hearing on **Tuesday 14 January 2014 at 11:30 am** to hear preliminary submissions from the Prosecution and counsel for Mr. Merhi on the possible joinder of the two cases. The personal attendance of the Prosecutor is required.

¹⁰ STL-13-04/I/PTJ, Observations du Bureau de la Défense relatives à la requête du Procureur aux fins de transfert à la Chambre de Première Instance de la question de la jonction, 23 December 2013.

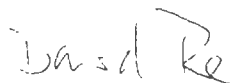
¹¹ STL-13-04/I/PTJ, Order Relating to Disclosure of the Material Referred to in Rule 110(A) of the Rules and Other Material in the Proceedings, 24 December 2013.

¹² STL-11-01/PT/TC, Prosecution Motion for Joinder, 30 December 2013.

¹³ STL-13-04/I/PTJ, Décision soumettant à la Chambre de Première Instance la question de la jonction d'instances, 2 January 2014.

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

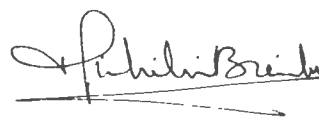
10 January 2014



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

