

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

### 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:** 11 April 2014

**Original language:** English

**Classification:** Public

#### THE PROSECUTOR

v.

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

#### SECOND DECISION ON AGREED FACTS UNDER RULE 122

##### Office of the Prosecutor:

Mr. Norman Farrell, Mr. Graeme Cameron  
& Mr. Alexander Milne

##### Victims' Legal Representatives:

Mr. Peter Haynes, Mr. Mohammad F. Mattar  
& Ms. Nada Abdelsater-Abusamra

##### Counsel for Mr. Salim Jamil Ayyash:

Mr. Eugene O'Sullivan, Mr. Emile Aoun  
& Mr. Thomas Hannis

##### Counsel for Mr. Mustafa Amine Badreddine:

Mr. Antoine Korkmaz, Mr. John Jones  
& Mr. Iain Edwards

##### Counsel for Mr. Hassan Habib Merhi:

Mr. Mohamed Aouini, Ms. Dorothee Le Fraper  
du Hellen & Mr. Jad Khalil

##### Counsel for Mr. Hussein Hassan Oneissi:

Mr. Vincent Courcelle-Labrousse, Mr. Yasser  
Hassan & Mr. Philippe Larochelle

##### Counsel for Mr. Assad Hassan Sabra:

Mr. David Young, Mr. Guénaél Mettraux  
& Mr. Geoffrey Roberts



1. The Trial Chamber, in a decision on 2 April 2014,<sup>1</sup> recorded under Rule 122 of the Rules of Procedure and Evidence that counsel for Mr. Salim Jamil Ayyash, Mr. Mustafa Amine Badreddine, Mr. Hussein Hassan Oneissi, and Mr. Assad Hassan Sabra had agreed that the following nine facts were not contested at trial:<sup>2</sup>

- (i) In addition to killing Mr. Rafiq Hariri, the explosion killed 21 other persons listed in Schedule A of the Indictment;
- (ii) The explosion injured 226 persons listed in Schedule B of the Indictment;
- (iii) The video of the claim of responsibility was later broadcast on television;
- (iv) Mr. Rafiq Hariri was born on 1 November 1944 in the city of Sidon, Lebanon;
- (v) Mr. Rafiq Hariri served as Prime Minister of Lebanon in five governments from 31 October 1992 to 4 December 1998, and from 26 October 2000 until his resignation on 26 October 2004;
- (vi) Mr. Rafiq Hariri was a prominent political figure in Lebanon;
- (vii) After his resignation, Mr. Rafiq Hariri started preparing for parliamentary elections which were due to start in late May 2005;
- (viii) Parliament is located at Place de l'Etoile, Beirut; and
- (ix) In his armoured vehicle, Mr. Rafiq Hariri was accompanied by the Member of Parliament, Mr. Bassel Fuleihan.<sup>3</sup>

2. The Trial Chamber was unable to record these facts as uncontested in relation to Mr. Hassan Habib Merhi as his counsel had offered only a provisional agreement on these facts,<sup>4</sup> specifying that any agreement was for the time being (*'pour le moment'*). According to counsel for Mr. Merhi this was because they had had neither the opportunity to get acquainted with the Prosecution's evidence

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<sup>1</sup> *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi, and Sabra*, STL-11-01/T/TC, Decision on Agreed Facts under Rule 122, 2 April 2014.

<sup>2</sup> *Prosecutor v. Ayyash, Badreddine, Oneissi, and Sabra*, STL-11-01/PT/PTJ, Prosecution's Notice on the Implementation of the Pre-Trial Judge's "Order Regarding Narrowing Issues Contested at Trial", 19 March 2013, para. 5.

<sup>3</sup> The Trial Chamber's decision of 2 April 2014 misspelled Mr. Fuleihan's name. It is corrected in the disposition here.

<sup>4</sup> 'Notification sur les faits non contestés dans le dossier Ayyash', 14 March 2014: 'La Défense de M. Merhi rappelle que son dossier n'est pas encore mis en état, qu'elle n'a pas été en mesure de prendre connaissance de la majeure partie du dossier à charge, de mener des enquêtes, et qu'en tout état de cause elle n'a pas encore adopté de ligne de défense ou déposé de mémoire d'avant procès, sur le fondement de l'article 91(I) du Règlement, qui lui permettrait de prendre position sur le fond de l'affaire. Cependant, compte tenu de la nature des neuf faits susvisés et sous toutes réserves, la Défense de M. Merhi informe les parties qu'elle n'entend pas pour le moment contester ces faits.'

and prepare a defence strategy, nor to file a pre-trial brief. Their provisional agreement was without prejudice (*'sous toutes réserves'*).<sup>5</sup>

3. However, when asked in the status conference on 10 April 2014 as to their position on these facts, counsel for Mr. Merhi stated that they now 'approve[d] these facts as uncontested facts' and requested the Trial Chamber to 'qualify' them as uncontested.<sup>6</sup> The Trial Chamber will accordingly record the agreement in relation to Mr. Merhi.

### DISPOSITION

**FOR THESE REASONS**, the Trial Chamber:

**RECORDS** under Rule 122 of the Rules of Procedure and Evidence the agreement of the Prosecutor and counsel for Mr. Salim Jamil Ayyash, Mr. Mustafa Amine Badreddine, Mr. Hassan Habib Merhi, Mr. Hussein Hassan Oneissi and Mr. Assad Hassan Sabra in relation to the following nine facts that it may accept as being proved at trial:

- (i) In addition to killing Mr. Rafiq Hariri, the explosion killed 21 other persons listed in Schedule A of the Indictment;
- (ii) The explosion injured 226 persons listed in Schedule B of the Indictment;
- (iii) The video of the claim of responsibility was later broadcast on television;
- (iv) Mr. Rafiq Hariri was born on 1 November 1944 in the city of Sidon, Lebanon;
- (v) Mr. Rafiq Hariri served as Prime Minister of Lebanon in five governments from 31 October 1992 to 4 December 1998, and from 26 October 2000 until his resignation on 26 October 2004;
- (vi) Mr. Rafiq Hariri was a prominent political figure in Lebanon;
- (vii) After his resignation, Mr. Rafiq Hariri started preparing for parliamentary elections which were due to start in late May 2005;
- (viii) Parliament is located at Place de l'Etoile, Beirut; and
- (ix) In his armoured vehicle, Mr. Rafiq Hariri was accompanied by the Member of Parliament, Mr. Bassel Fuleihan.

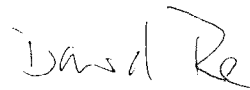
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<sup>5</sup> 'Notification sur les faits non contestés dans le dossier Ayyash', 14 March 2014.

<sup>6</sup> STL-11-01/T/TC, Unofficial transcript of 10 April 2014, T. 18-20.

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

Leidschendam,  
The Netherlands,  
11 April 2014



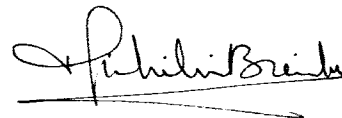
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Judge David Re, Presiding



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Judge Janet Nosworthy



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Judge Micheline Braidy

