



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: 20 June 2014

Original language: English

Classification: Public with Confidential Annex

THE PROSECUTOR

v.

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

DECISION ON THE PROSECUTION MOTION TO RECLASSIFY TWO DECISIONS

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. On 14 April 2014, counsel for Mr. Assad Hassan Sabra requested the Trial Chamber to issue a finding of non-compliance with the Trial Chamber's two orders of 31 January 2014 directed to Lebanon.¹ In its response to this motion, the Prosecution referred to two confidential and *ex parte* decisions of the Trial Chamber and the Pre-Trial Judge. These are, respectively, 'Decision on the Confidential and *Ex Parte* Prosecution's Request for a Judicial Finding that the Lebanese Authorities have Failed to Comply with the Arrest Warrants pursuant to Rule 20 (C)' issued by the Trial Chamber on 2 November 2011, and 'Decision on the Confidential and *Ex Parte* Prosecution's Request for a Judicial Finding that the Lebanese Authorities have Failed to Comply with the Arrest Warrants pursuant to Rule 20 (C) of the Rules' issued by the Pre-Trial Judge on 22 December 2011.²
2. Counsel for Mr. Sabra subsequently requested access to or reclassification of these decisions.³ The Prosecution,⁴ at the Trial Chamber's request,⁵ submitted proposed redactions to the two decisions with a view to their reclassification.
3. In respect of the redactions proposed to its decision of 2 November 2011, the Trial Chamber considers that certain limited redactions—specified in the annex to this decision—remain necessary to avoid jeopardising Lebanon's ongoing cooperation with the Special Tribunal. The Trial Chamber accordingly authorises reclassifying the decision as confidential, but with those limited redactions.
4. The redactions proposed by the Prosecution to the Pre-Trial Judge's decision of 22 November 2011 refer to efforts made by the Lebanese authorities in July and August 2011 to enforce the warrants of arrest issued by the Pre-Trial Judge on 8 July 2011. The proposed redactions do not refer either to investigative steps taken by the Prosecution or its communications with the Lebanese authorities. The Trial Chamber considers that the previous justifications for classifying this decision as *ex parte* no longer exist; thus the Prosecution's proposed redactions are unnecessary. The Trial Chamber has consulted the Pre-Trial Judge and he does not oppose reclassifying it as confidential and without redactions. This decision should therefore be reclassified as confidential without the Prosecution's proposed redactions.

¹ STL, *Prosecutor v. Ayyash, Badreddine, Oneissi, and Sabra*, Decision on Second and Fifth Motions by counsel for Assad Hassan Sabra and two orders to Lebanon to cooperate with the Tribunal, 31 January 2014; Consolidated request for finding of non-compliance, 14 April 2014.

² Prosecution Response to the Sabra Defence's Consolidated Request for Finding of Non-Compliance, 29 April 2014, paras 6-7, 11.

³ Email from counsel for Mr. Sabra to Trial Chamber's Legal Officer, 13 May 2014.

⁴ Prosecution submission on the reclassification of two decisions, 30 May 2014. The public redacted version of this filing was filed simultaneously.

⁵ Email from Trial Chamber's Legal Officer to counsel for Mr. Sabra and Office of the Prosecutor, 27 May 2014.

5. The Trial Chamber reiterates its desire to respect the principle of the public nature of the proceedings. However, consistent with the Special Tribunal's mandate, it must balance this with ensuring the confidentiality of certain information. The two decisions should not yet be reclassified as public because the reason for their classification as confidential—namely, certain ongoing actions by Lebanese law enforcement personnel—still exist.

FOR THESE REASONS, the Trial Chamber:

ORDERS the Registry to reclassify as confidential:

- (1) The redacted 'Decision on the Confidential and *Ex Parte* Prosecution's Request for a Judicial Finding that the Lebanese Authorities have Failed to Comply with the Arrest Warrants pursuant to Rule 20 (C)', 2 November 2011, as annexed, and
- (2) 'Decision on the Confidential and *Ex Parte* Prosecution's Request for a Judicial Finding that the Lebanese Authorities have Failed to Comply with the Arrest Warrants pursuant to Rule 20 (C) of the Rules', 22 December 2011.

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

Leidschendam,
The Netherlands
20 June 2014

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

