

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: 23 April 2015

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

**ORDER IN RELATION TO ONEISSI MOTION FOR THE DISCLOSURE OF
THE CONTENT OF A FLOPPY DISK AND A COMPACT DISC**

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:

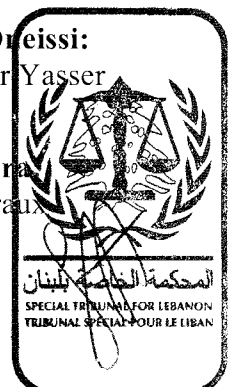
Mr Mohamed Aouini, Ms Dorothee Le Fraper
du Hellen & Mr Jad Khalil

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. Counsel for the Accused, Mr Hussein Hassan Oneissi, requested the Trial Chamber, under Rules 110 (B) and 130 (A) of the Special Tribunal's Rules of Procedure and Evidence, to order the Prosecution to disclose the full contents of a floppy disk and a compact disc.¹ They contain 5,352 files, amounting to approximately 7800 pages,² of 'documents related to the information about all the records and archives of the [Lebanese General Security] for the period 1 July 2004 and 30 June 2005'.³ Counsel argue that the contents of the floppy disk and compact disc are material to their trial preparations in understanding the wider circumstances and non-private motives leading to the assassination of the former Lebanese Prime Minister Mr Rafik Hariri in Beirut on 14 February 2005.⁴
2. Counsel for Mr Oneissi submit that disclosure would permit them to conduct their investigations in relation to a number of issues: (a) who were the individuals or groups under the surveillance of the Lebanese General Security before the attack; (b) what were the results of the surveillance; (c) whether there are any links between these individuals or groups and the attack against Mr Rafik Hariri; (d) what information falling under the political domain was collected; (e) who were the individuals or groups under surveillance or investigated by the General Security after the attack against Mr Hariri; and (f) who was performing such surveillance, by which means, and under whose orders.⁵
3. The Prosecution opposes the motion, arguing it is premature as counsel did not request the Prosecution to review the content of the discs against the above criteria before filing this motion. In any event, the Prosecution submit that counsel's arguments relating to the materiality of the information sought are speculative and that the materiality criteria identified by them bear no relationship to the case at hand.⁶
4. The Trial Chamber considers that the floppy disk and compact disc—which pertain to the Lebanese General Security's records and archives—may contain material information about the political context in which the attack occurred and may relate to the testimonies of several witnesses already heard by the Trial Chamber on this subject, for instance; Marwan Hamade, Faysal Ibrahim Salman, Ghattas Khoury, Salim Diab, Ghaleb Chammaa, Ghazi Youssef, Bassem El-Sabeh, Fouad

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F1819, The Defence for Hussein Hassan Oneissi Motion for the Disclosure of the Content of a Floppy Disk and a Compact Disc, 19 January 2015.

² Email from the Prosecution to the Trial Chamber's Legal Officer on 8 and 9 April 2015.

³ Oneissi motion, para. 1.

⁴ Oneissi motion, para. 1.

⁵ Oneissi motion, para. 15.

⁶ F1838, Prosecution Response to the Defence for Hussein Hassan Oneissi Motion for the Disclosure of the Contents of a Floppy Disk and a Compact Disc, 2 February 2015, paras 6-16. The Prosecution clarified that the content of the floppy disk duplicates the content of the compact disc which also contains some additional files (Prosecution response, para. 5).

Siniora, Mustapha Nasser and Ali Hamade. This material may thus be linked to, for example, the areas of investigation (c) and (d) identified by counsel for Mr Oneissi in their motion. It also takes note of the Prosecution's submissions that its previous reviews of the compact disc and floppy disk did not identify any information falling under Rule 110 (B) in addition to that already disclosed to the Defence.⁷ The Trial Chamber will order the Prosecution to conduct a thorough review of the content of the floppy disk and compact disc to determine whether they contain such information and, in the affirmative, to disclose them to the Defence.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

ORDERS the Prosecution to review by 15 May 2015 the content of the floppy disk and the compact disc sought in counsel for Mr Oneissi's motion, to determine whether they contain any Rule 110 (B) information.

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

Leidschendam,
The Netherlands
23 April 2015

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy



⁷ Prosecution response, paras 3 and 12; see also Annex G.