

**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: 1 June 2016

Original language: English

Classification: Public

**INTERIM DECISION ON THE DEATH OF MR MUSTAFA AMINE BADREDDINE
AND POSSIBLE TERMINATION OF PROCEEDINGS, DISSENTING OPINION OF
JUDGE MICHELINE BRAIDY**

(Extract from Official Public Transcript of Hearing on 1 June 2016, page 55, line 15 to page 57, line 23)

The Prosecution and counsel for the accused Mustafa Amine Badreddine have presented evidence to the Trial Chamber relating to the death of Mr. Badreddine. The Prosecution has submitted that the Trial Chamber could be satisfied from this evidence that he is dead.

Counsel for Mr. Badreddine submitted that there is evidence before the Trial Chamber sufficient to conclude that he is dead and that the proceedings should be immediately terminated.

The Legal Representative of Victims submitted that it is premature to make such a decision and that more evidence is required before the Chamber could make a definitive finding that Mr. Badreddine is dead and discontinue the proceedings.

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The Trial Chamber notes that the Prosecution has outstanding requests for assistance sent to the government of Lebanon seeking further information relating to what happened to Mr. Badreddine and is awaiting responses.

The three Judges who constitute the Trial Chamber have made this decision by majority, with Judge Braidy dissenting. The Trial Chamber does not believe that sufficient evidence has yet been presented to convince it that the death of Mustafa Amine Badreddine has been proved to the requisite standard. The trial will therefore continue pending the receipt of further information we anticipate from the government of Lebanon.

The Trial Chamber will review any additional material and re-evaluate the material already submitted in due course.

This, what I've read out, is simply the decision. A fully [...] reasoned written decision will follow as soon as possible. That completes the Trial Chamber majority decision.

Dissenting Opinion Judge Braidy

JUDGE BRAIDY: I must respectfully dissent with the views of my fellow Judges with regards to today's interlocutory decision regarding the legal status of the accused Mustafa Amine Badreddine.

In my view based on all the materials and evidence produced by the Prosecution in the hearing of yesterday, 31st of May, and the Defence of Mr. Badreddine today and yesterday, and legal submissions, I'm convinced that Mr. Mustafa Amine Badreddine is deceased. Those events which have persuaded me include the following, mainly: The video footage illustration of the Mufti Jaafarite Amad Kabalan in presence of Badreddine family of many officials; the video footage illustrating the declaration of the vice-president of the Shiite Superior Council, Sheikh Abdel Al-Amir Kabalan, which is the highest religious body; media reports of Mr. Badreddine's death, nationally and internationally; the video of the condolences ceremony on 13th of May 2016; funeral speeches delivered on the 13th of May 2016; the video of the casket entering the martyr cemetery of Rawdat-El-Shahidayn in Ghobeiri; the photo of the grave; the statement of Hezbollah regarding the cause of Mr. Badreddine's death; the visit of the Iranian delegation on the 14th May 2016, namely, the deputy foreign minister of Iran; the ceremony in ^ in Syria, attended by officials, Syrian, Palestinian, and Iranians; the ceremony held in Beirut on the 20th of May with the attendance of the family of Mr. Badreddine; the ceremony held in Tehran, attended by the Badreddine relatives; the family declaration of the

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death of Mr. Badreddine. After considering this evidence and after hearing the Prosecution and the Defence, I am satisfied that sufficient evidence has been presented that Mr. Mustafa Amine Badreddine has died and consequently the proceedings against the accused, Mustafa Amine Badreddine, must be terminated and the Prosecutor required to amend the indictment.

I reserve the right to add additional reasons in support of my dissent.

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