



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**THE APPEALS CHAMBER**

**Case No:** STL-11-01/T/AC/AR126.11

**Before:** Judge Ivana Hrdličková, Presiding  
Judge Ralph Riachy  
Judge David Baragwanath  
Judge Afif Chamseddine  
Judge Daniel David Ntanda Nsereko

**Registrar:** Mr Daryl Mundis

**Date:** 17 June 2016

**Original language:** English

**Classification:** Public

**THE PROSECUTOR**

v.

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

**DECISION ON THE REQUEST OF THE LEGAL REPRESENTATIVE OF VICTIMS  
SEEKING LEAVE TO RESPOND TO THE BADREDDINE DEFENCE INTERLOCUTORY  
APPEAL**

**Prosecutor:**  
Mr Norman Farrell

**Head of Defence Office:**  
Mr François Roux

**Legal Representatives of  
Participating Victims:**  
Mr Peter Haynes, Mr Mohammad F. Mattar  
& Ms Nada Abdelsater-Abusamra

**Counsel for Mr Salim Jamil Ayyash:**  
Mr Emile Aoun, Mr Thomas Hannis & Mr Chad  
Mair

**Counsel for Mr Mustafa Amine Badreddine:**  
Mr Antoine Korkmaz, Mr Iain Edwards &  
Ms Mylène Dimitri

**Counsel for Mr Hassan Habib Merhi:**  
Mr Mohamed Aouini, Ms Dorothée Le Fraper  
du Hellen & Mr Jad Khalil

**Counsel for Mr Hussein Hassan Oneissi:**  
Mr Vincent Courcelle-Labrousse, Mr Yassine  
Hassan & Ms Natalie von Wistinghausen

**Counsel for Mr Assad Hassan Sabra:**  
Mr David Young, Mr Guénaél Mettraux &  
Mr Geoffrey Roberts



## **INTRODUCTION**

1. The Appeals Chamber is seized of an interlocutory appeal<sup>1</sup> by Defence Counsel for Mr Badreddine (“Badreddine Defence”) against the Trial Chamber’s interim decision that it did not believe that sufficient evidence had yet been presented to convince it that the death of Mr Mustafa Amine Badreddine has been proven to the requisite standard.<sup>2</sup>

2. On 15 June 2016, the Legal Representative of Victims (“LRV”) filed a request for leave to respond to the Appeal.<sup>3</sup> The Appeals Chamber instructed that any response to the Leave Request be filed by 12 p.m. on Friday 17 June 2016.<sup>4</sup> The Parties indicated that they would not make submissions on the Leave Request.<sup>5</sup>

## **DISCUSSION**

3. The LRV requests leave to respond to Grounds B, C, D and E of the Appeal, as well as the Badreddine Defence’s request for suspensive relief pending a determination of the Appeal by the Appeals Chamber,<sup>6</sup> pursuant to Article 17 of the Tribunal’s Statute (“Statute”), Rule 87 of the Tribunal’s Rules of Procedure and Evidence (“Rules”) and the Appeals Chamber’s relevant case-law.<sup>7</sup> The LRV argues that the Appeal significantly affects the personal interests of participating victims, as the potential termination of the proceedings against Mr Badreddine may affect their right to claim compensation at the national level pursuant to Article 25 of the Statute.<sup>8</sup> Consequently, the LRV submits that he should be heard on both the applicable standard of proof and the Trial Chamber’s assessment of the evidence regarding Mr Badreddine’s death.<sup>9</sup> In addition, he asserts that, since it is in the personal interest of the victims that the trial be expeditious, he should also be

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<sup>1</sup> STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/AC/AR126.11, F0001, Badreddine Interlocutory Appeal of the “Interim Decision on the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings”, 15 June 2016 (“Appeal”).

<sup>2</sup> STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, F2612, Reasons for Interim Decision on the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings, 7 June 2016.

<sup>3</sup> STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/AC/AR126.11, F0002, Request of the Legal Representative of Victims for Leave to Respond to the Badreddine Interlocutory Appeal of the “Interim Decision on the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings”, 15 June 2016 (“Leave Request”).

<sup>4</sup> Email from Legal Officer, Appeals Chamber to the Office of the Prosecutor and Defence Counsel, 16 June 2016.

<sup>5</sup> Emails from the Prosecution and Defence Counsel to Legal Officer, Appeals Chamber, 16 June 2016.

<sup>6</sup> Leave Request, para. 9.

<sup>7</sup> Leave Request, paras 1-4, referring to STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/AC/AR126.10, F0013, Decision on Interlocutory Appeal Against the Trial Chamber’s Decision Regarding the Conditions of Assignment of Defence Expert Consultant, 3 May 2016 (“Defence Expert Consultant Appeal Decision”).

<sup>8</sup> Leave Request, para. 5.

<sup>9</sup> Leave Request, para. 6.

heard on the issue of the requested suspension of the proceedings.<sup>10</sup> Finally, the LRV argues that he was heavily involved in the legal debate regarding all three of these issues before the Trial Chamber.<sup>11</sup>

4. Rule 87 (D) of the Rules provides that, “[a]t the appeal stage, subject to the authorisation of the Appeals Chamber, after hearing the Parties, a victim participating in proceedings may participate in a manner deemed appropriate by the Appeals Chamber.” As we have previously held, the Appeals Chamber must therefore determine whether permitting the LRV to respond to the Appeal is appropriate in the circumstances of this case.<sup>12</sup> In doing so, in accordance with Article 17 of the Statute, the Appeals Chamber considers whether the victims’ personal interests are affected by the matter on appeal.<sup>13</sup> The Appeals Chamber also considers whether the requested participation would be prejudicial to, or inconsistent with, the rights of the Accused.<sup>14</sup>

5. The matter on appeal, which involves the possible termination of proceedings against Mr Badreddine,<sup>15</sup> clearly affects the personal interests of the victims, including their potential ability to claim compensation.<sup>16</sup> Indeed, the LRV made submissions directly on the matter on appeal before the Trial Chamber.<sup>17</sup> Moreover, noting that Defence Counsel for the Accused have not opposed the Leave Request, we find that granting the LRV leave to respond to the Appeal is not prejudicial to, or inconsistent with, the rights of the Accused.

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<sup>10</sup> Leave Request, para. 7.

<sup>11</sup> Leave Request, para. 8.

<sup>12</sup> Defence Expert Consultant Appeal Decision, para. 15.

<sup>13</sup> Defence Expert Consultant Appeal Decision, para. 15; Art. 17 STL St.; Rule 87 (D) STL RPE.

<sup>14</sup> STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR126.3, F0009, Decision on Appeal by Legal Representative of Victims against Pre-Trial Judge’s Decision on Protective Measures, 10 April 2013; Art. 17 STL St.

<sup>15</sup> Appeal, para. 31.

<sup>16</sup> Leave Request, para. 5.

<sup>17</sup> Leave Request, para. 8; *see also* Defence Expert Consultant Appeal Decision, para. 17.

**DISPOSITION**

**FOR THESE REASONS,**

**THE APPEALS CHAMBER,**

**PURSUANT** to Article 17 of the Statute and Rule 87 (D) of the Rules,

**GRANTS** the Legal Representative of Victims leave to:

- (i) respond to the request for suspensive relief by 12 p.m. on Tuesday, 21 June 2016;  
and
- (ii) respond to Grounds B, C, D and E of the Appeal by Monday, 27 June 2016.

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

Dated 17 June 2016

Leidschendam, the Netherlands



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Judge Ivana Hrdličková  
Presiding Judge

