

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**BEFORE THE TRIAL CHAMBER****SPECIAL TRIBUNAL FOR LEBANON**

**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 July 2016

**Original language:** English

**Classification:** Public

**PROSECUTOR**

v.

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

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**ORDER TERMINATING PROCEEDINGS AGAINST MUSTAFA AMINE  
BADREDDINE WITHOUT PREJUDICE AND ORDERING THE FILING OF AN  
AMENDED CONSOLIDATED INDICTMENT**

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**Office of the Prosecutor:**

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

**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:**

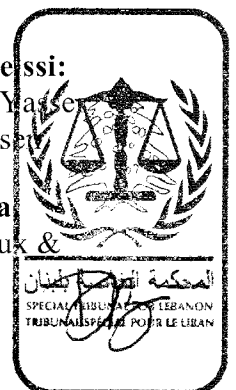
Mr Mohamed Aouini, Ms Dorothee Le Fraper du  
Hellen & Mr Jad Khalil

**Counsel for Mr Hussein Hassan Oneissi:**

Mr Vincent Courcelle-Labrousse, Mr Youssef  
Hassan & Ms Natalie von Wistinghaus

**Counsel for Mr Assad Hassan Sabra:**

Mr David Young, Mr Guénaél Mettraux &  
Mr Geoffrey Roberts



1. The Trial Chamber, on 31 May and 1 June 2016, heard evidence and legal submissions regarding the reported death, earlier in May 2016, of the Accused, Mr Mustafa Amine Badreddine, and the possible termination of the proceedings against him.

2. Immediately after the evidentiary hearing, on 1 June 2016, the Trial Chamber delivered an interim decision deciding, by majority, that ‘it did not believe that sufficient evidence has yet been presented to convince it that the death of Mustafa Amine Badreddine had been proved to the requisite standard’.<sup>1</sup> Judge Braidy delivered a dissenting opinion. The Trial Chamber and Judge Braidy published their written reasons on 7 and 8 June 2016 respectively.<sup>2</sup> On 9 June 2016, at the request of counsel for Mr Badreddine, the Trial Chamber certified the decision for interlocutory appeal under Rule 126 (C) of the Rules of Procedure and Evidence.<sup>3</sup>

3. On 21 June 2016, the Appeals Chamber, at the request of counsel for Mr Badreddine, delivered a majority interim decision for ‘suspensive effect’, holding that this ‘has the effect of suspending proceedings before the Trial Chamber’ pending a decision on the merits of the appeal.<sup>4</sup> The Trial Chamber had scheduled a status conference for 22 June 2016, but in view of the Appeals Chamber’s decision, cancelled it. Consequently, it has not held any hearings since.

4. The Appeals Chamber—by majority—rendered its decision on 11 July 2016 on the same evidence the Trial Chamber had heard on 31 May and 1 June 2016, in respect of the Trial Chamber’s decision of 1 June 2016. It set aside the Trial Chamber’s decision and substituted its own decision, finding that sufficient evidence had been presented to convince it that the death of Mr Badreddine had been proved to the requisite standard. It directed the Trial

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<sup>1</sup> Transcript of 1 June 2016, pp. 56-57.

<sup>2</sup> STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2612, Reasons for interim decision on the death of Mr Mustafa Amine Badreddine and possible termination of proceedings, 7 June 2016; F2616, Dissenting opinion of Judge Micheline Braidy on the Trial Chamber’s interim decision regarding the death of Mr Mustafa Amine Badreddine and possible termination of proceedings, 8 June 2016.

<sup>3</sup> F2620, Certification for interlocutory appeal of ‘Interim decision on the death of Mr Mustafa Amine Badreddine and possible termination of proceedings’, 9 June 2016, para. 15, urging ‘expedition in resolving this matter at the appellate level’.

<sup>4</sup> F0010-AR126.11, Decision on Badreddine Defence request for suspensive effect of its interlocutory appeal against the Trial Chamber’s decision regarding Mr Badreddine’s death, 21 June 2016, para. 2. Written reasons followed; F0011-AR126.11, Reasons for decision on Badreddine Defence request for suspensive effect of its interlocutory appeal against the Trial Chamber’s decision regarding Mr Badreddine’s death, 23 June 2016; and Dissenting opinion of Judge David Baragwanath, 23 June 2016, Dissenting opinion of Judge Daniel David Ntanda Nsereko, 23 June 2016.

Chamber to terminate the proceedings against him ‘without prejudice to resume the proceedings should evidence that he is alive be adduced in the future’.<sup>5</sup>

5. In light of this decision, the Trial Chamber makes the following orders:

- (1) The proceedings against Mustafa Amine Badreddine are terminated without prejudice to resuming the proceedings should evidence that he is alive be adduced in the future; and
- (2) The Prosecution is ordered—pursuant to Rule 71 (A) (iii)—to file an amended consolidated indictment.

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

Leidschendam,  
The Netherlands  
11 July 2016

*David Re*

Judge David Re, Presiding

*Janet Nosworthy*

Judge Janet Nosworthy

*Micheline Braidy*

Judge Micheline Braidy

<sup>5</sup> F0019-AR126.11, Decision on Badreddine Defence interlocutory appeal of the “Interim decision on the death of Mr Mustafa Amine Badreddine and possible termination of the proceedings”, 11 July 2016, disposition. Appended was the Dissenting opinion of Judge Daniel David Ntanda Nsereko, 11 July 2016. Judge David Baragwanath’s dissenting opinion was to follow.

