

**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: 13 December 2016

Original language: English

Classification: Public

**TRIAL CHAMBER DECISION WITH RESPECT TO SABRA DEFENCE'S
FURTHER SUBMISSION ON THE FINDING OF NONCOMPLIANCE**

(Extract from Official Public Transcript of Hearing on 13 December 2016, page 35, line 13 to
page 38, line 6)

The Chamber has to deal with filing F2841 of the 18th of November, 2016, which is a filing by Defence for Mr. Assad Hassan Sabra, “Update to ‘Further Decision on Sabra Defence Motion for a Finding of Noncompliance with the Special Tribunal.’” In that -- that update results from filing F2704 of the 26th of August, 2016, “Further Decision on Sabra Defence Motion for a Finding of Noncompliance with the Special Tribunal.” And in that decision, the Chamber noted that it remained seized of long-standing requests from counsel for Mr. Sabra to make findings of noncompliance against the Government of the Lebanese Republic for failing to respond to the Trial Chamber's order to Lebanon to cooperate with the Special Tribunal and to answer Defence requests for assistance seeking information for their investigations in preparation for trial.

In that decision at paragraph 2, the Chamber noted that 119 requests for assistance were initially argued by the Sabra Defence to be outstanding, and the Chamber had in decisions of the 31st of January, 2014, 31st of March, 2014, a clarification order of the 23rd

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of June, 2014, a decision of the 27th of March, 2015, a further clarification order of 22nd of May, 2015, had directed the Government of Lebanon to cooperate with the Special Tribunal by responding to and answering what the Trial Chamber had assessed to be 43 enumerated outstanding Defence requests for assistance. These were specifically addressed in decisions of the 31st of January, 2014, related to 11 requests, and the 31st of March, 2014, related to 32 requests.

Now, since the Chamber filed that order or further decision on the 26th of August, 2016, we are pleased to note that there has been some further response from the Government of the Lebanese Republic. In that decision of the 26th of August, the Chamber assessed that there were four requests relating to information said to be held by one Lebanese telecommunications provider which were outstanding. That was on the 26th of August, 2016.

Since then the Sabra Defence received further information from the Lebanese government. And in its filing of the 18th of November, 2016, counsel for Mr. Sabra informed the Chamber at paragraph 3:

“Having reviewed the material, the Sabra Defence can inform the Chamber that it no longer considers requests,” which they refer to, “to be outstanding and therefore withdraws its request for a finding of noncompliance in this regard.”

Now, the effect of that is that those were the four remaining requests which were considered to be outstanding by the Chamber, and the Sabra Defence have informed the Chamber that it no longer considers them to be outstanding.

They do note, however, in paragraph 5: “In light of the timing of the compliance by the Lebanese authorities, and given the Prosecution's heavy reliance on telecommunications data in its case against the accused, the Sabra Defence reserves its right to recall PRH707 for further cross-examination and/or file further written submissions with regard to the admissibility or weight ascribed to material associated with the testimony of PRH707, pending further investigations arising from the recently acquired material from Alfa telecommunications company.”

The Chamber notes the withdrawal of the Sabra Defence's request for a finding of noncompliance against the Government of the Lebanese Republic in relation to those four outstanding requests for assistance which they consider now to have been addressed.

That should complete the litigation in respect of filings F702, F1079, F1495, F1810, F412, F2139, F2322, F2527, and F2571. And in this respect the Chamber repeats what it said

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in its decision of the 26th of August, 2016, and that is that “the Trial Chamber recognizes and appreciates the work of the Lebanese Government in obtaining responses,” then we said “to all bar those four requests for assistance.” And we urged the government the continue with its efforts.

The Chamber is now satisfied the Lebanese government has completely complied with the outstanding requests and we thank the government for its efforts to fully cooperate with the Tribunal. And that essentially completes the litigation of the matters seeking an order of noncompliance against the Lebanese government.

The Sabra Defence having withdrawn their request for that, the Chamber need not make any further orders in respect of these matters.

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