

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

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: 18 July 2017

Original language: English

Classification: Public

THE PROSECUTOR

v.

**SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

**ORDER TO PROVIDE SUBMISSIONS ON THE RELEVANCE OF PROPOSED
QUESTIONS TO A WITNESS TESTIFYING UNDER RULE 125 (B), AS
SUBMITTED BY THE ONEISSI AND SABRA DEFENCE**

Office of the Prosecutor:

Mr Norman Farrell & 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 Hassan Habib Merhi:

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

Counsel for Mr Hussein Hassan Oneissi:

Mr Vincent Courcelle-Labrousse, Mr Yasser
Hassan & Ms Natalie von Wistinghausen

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Geoffrey Roberts &
Ms Sarah Bafadhel



1. The Trial Chamber, on 14 June 2017, ordered Defence counsel to file, *ex parte*, their proposed questions to a witness testifying under Rule 125 (B) of the Special Tribunal's Rules of Procedure and Evidence.¹ On 21 June 2017, counsel for Mr Hussein Hassan Oneissi filed, confidentially and *ex parte*, a list of proposed questions.² Counsel for Mr Assad Hassan Sabra, on the same date, notified the Trial Chamber that they had submitted their list of proposed questions to the Language Services Section of the Special Tribunal's Registry for translation into the language of the Third State.³ On 17 July 2017, following the Trial Chamber's reminder,⁴ the Sabra Defence provided a copy of the document, *ex parte*, to the Trial Chamber. The Prosecution and counsel for Mr Hassan Habib Merhi also submitted their proposed questions, *ex parte*, to the Trial Chamber.⁵

2. The Trial Chamber has reviewed the questions. It considers that, with regard to some of those questions, submissions from counsel are needed to support their relevance—or the relevance of any answers to them, and in some instances the probative value of any answers—to the *Ayyash* trial and the case against Mr Oneissi and Mr Sabra. Additionally, some of the Oneissi Defence's questions ask the witness either to confirm or to repeat evidence contained in the witness's statements. The witness, however, is testifying pursuant to Rule 156, under which a witness's statements are accepted in lieu of evidence in chief, but the witness must 'attest[...] that the written statement [...] accurately reflects that witness's declaration and what the witness would say if examined.' The Trial Chamber therefore requires an explanation of the reason for this anticipated repetition of evidence.

3. Moreover, there is some overlap between the questions of the Oneissi Defence and the Sabra Defence; the Trial Chamber will deal with this when it has received the submissions the subject of this order.

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi, and Sabra*, F3180, Order and Decision in relation to a Witness Testifying under Rule 125, 14 June 2017.

² F3192, Defence for Hussein Hassan Oneissi Submission of Proposed Questions and Accompanying Evidentiary Material pursuant to Rule 125 (B) and the Trial Chamber's Order and Decision in relation to a Witness Testifying Under Rule 125, 21 June 2017 (public with confidential and *ex parte* annex), confidential and *ex parte* annex A.

³ F3193, Notification of Transmission of Proposed Questions and Contextual Documents pursuant to Rule 125 (B) and Further Requests to the Trial Chamber, 21 June 2017 (public with confidential annex).

⁴ Provisional transcript of 17 July 2017, pp 62-64.

⁵ F3151, Prosecution Response to Registry Submissions pursuant to Rule 48(C) regarding the Trial Chamber's "Order to the Registrar under Rule 13 in relation to a Witness", 19 May 2017 (public with confidential and *ex parte* annex); F3191, Merhi Defence Submission Following the Order of 14 June 2017, 21 June 2017 (confidential and *ex parte*).

4. The Trial Chamber therefore orders counsel for Mr Oneissi and Mr Sabra to provide submissions by **09:00 on Thursday 20 July 2017**:

a) in respect of Mr Oneissi,

- the relevance of questions: 6 to 14, 23 (and the probative value of any answer to question 23), 145 to 148 (and the probative value of any answer to questions 145 to 148), 211 (and the probative value of any answer to question 211), 420, 421, 446, 463 and 465 (and the probative value of any answer to questions 420, 421, 446, 463 and 465);
- the reason for the repetition of questioning relating to evidence contained in the witness's statements generally and, in particular, in questions 184, 185, 201-206 and 396, asking the witness to confirm statements; and

b) in respect of Mr Sabra—the probative value of answers to questions: 148, 165, 166 and 315.

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

Leidschendam,
The Netherlands
18 July 2017

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

