

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: 22 August 2017

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

**DECISION ON THE LEGAL REPRESENTATIVE OF VICTIMS' MOTION FOR
VIDEO-CONFERENCE LINK TESTIMONY FOR V004**

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 Dorothee 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 31 July 2017, authorised the presentation of live evidence by seven victims participating in the proceedings, upon the request of the Legal Representatives of Victims, and scheduled it to commence on 28 August 2017.¹ The Legal Representatives request the Trial Chamber to authorise one of these witnesses, V004, to testify by video-conference link from the Special Tribunal's Office in Beirut.² The Parties informed the Trial Chamber that they did not intend to respond to the application.

2. The Legal Representatives submit that it is in the interests of justice to receive the witness's evidence by video-conference link. V004 is unable to travel to the Netherlands to testify during the two-week period scheduled for the Legal Representatives' evidence, due to the witness's personal and logistical circumstances. Therefore, testifying through video-conference link would provide flexibility in arranging the witness's appearance and address existing logistical concerns. The Legal Representatives also argue that this solution represents a significant economy for the Special Tribunal's finite resources.³

3. Further, video-conference testimony is equivalent to courtroom testimony, as counsel can effectively cross-examine and confront witnesses. The Legal Representatives also point to the Trial Chamber having envisaged the possible use of video-conference link for hearing Legal Representatives' witnesses.⁴

4. Rule 124 of the Special Tribunal's Rules of Procedure and Evidence provides, '[a]t the request of either Party, the Pre-Trial Judge or a Chamber may, in the interests of justice, order that testimony be received via video-conference link.' This Rule only refers to requests from Parties—and the Legal Representatives are not a Party. Nevertheless, a contextual reading of this provision, along with Rules 87 (B), 146 (A) and 150 (D), allows interpreting it as also applying to requests from the Legal Representatives.

5. Once the Legal Representatives have sought and obtained the Trial Chamber's authorisation to present witnesses' evidence, they can also seek, and the Trial Chamber may grant, authorisation for any of their witnesses to testify via video-conference link, under

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3260, Decision on the Legal Representative of Victims' Application to Call Evidence, Schedule the Presentation of Evidence and Directions on Disclosure Obligations, 31 July 2017, para. 83, disposition. The Trial Chamber also authorised the presentation of live evidence, upon the Legal Representatives' request, by a witness who is not a victim participating in the proceedings. *See idem*, para. 85, disposition.

² F3275, The Legal Representative of Victims Motion for Video-Conference Link Testimony for V004, 15 August 2017, (confidential; a public redacted version was filed on the same date) ('Application'), paras 1, 9.

³ Application, paras 4, 6-7.

⁴ Application, para. 5, referring to transcript of 30 June 2017, p. 11.

Rule 124. The Trial Chamber has issued a number of decisions in relation to specific witnesses for whom testimony via video-conference link was sought by the Parties, and a 'general decision' in which it identified the key principles associated with testimony via video-conference link.⁵ These principles are applicable here too.

6. Having considered the specific personal and logistical circumstances of the witness, the nature of the evidence and the rights of the Accused, the Trial Chamber is satisfied that it is in the interests of justice to hear the testimony of V004 via video-conference link. Further, the application is unopposed by the Parties. Video-conference link testimony enables effective cross-examination, in case the Parties wish to conduct it, safeguarding the rights of the Accused.

FOR THESE REASONS, the Trial Chamber:

AUTHORISES V004 to testify by video-conference link from the Beirut Office of the Special Tribunal for Lebanon.

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

Leidschendam,
The Netherlands
22 August 2017

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

⁵ F1425, General Decision on Video-Conference Link Testimony and Reasons for Decision on Video-Conference Link Testimony of Witness PRH128, 25 February 2014, paras 21-23.

