

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: 23 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 REPRESENTATIVES OF VICTIMS' APPLICATION
TO WITHDRAW ONE WITNESS FROM THEIR WITNESS LIST**

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 Legal Representatives of Victims seek the Trial Chamber's permission to withdraw one witness, Dr Fares Souaid, from their witness list.¹ The Parties informed the Trial Chamber that they did not intend to respond to the application.²

2. On 3 May 2017, the Legal Representatives submitted an application to be permitted to present the evidence of nine live witnesses, including two witnesses who are not victims participating in the proceedings. One of them is Dr Souaid, a surgeon, political observer and former Member of the Lebanese Parliament, who was anticipated to testify about the political background and the chain of events that preceded and followed the assassination of the former Prime Minister of Lebanon, Mr Rafik Hariri, as well as the humanitarian and psychological problems and pain of the victims.³

3. On 31 July 2017, the Trial Chamber ordered the Legal Representatives to provide to the Trial Chamber, and disclose to the Parties—by 16 August 2017—Dr Souaid's witness statement or report, or a document setting out the scope of his testimony. The Trial Chamber deferred deciding whether to permit Dr Souaid to testify pending receipt of the requested material.⁴

4. The Legal Representatives now submit that, after having reviewed the totality of the evidence at their disposal, and that presented during the Prosecution's case, Dr Souaid's evidence would be 'otiose'. Consequently, they no longer seek the 'admission of [his] evidence', nor the Trial Chamber's leave to present it.⁵

5. Under Rule 87 (B) of the Special Tribunal's Rules of Procedure and Evidence, 'a victim participating in the proceedings may request the Trial Chamber, after hearing the Parties, to call witnesses and to authorise him to tender other evidence'. Similarly, Rule 146 (A) provides that '[v]ictims participating in the proceedings may, on notice to the Prosecutor and the Defence, request the Trial Chamber to call witnesses.'

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3270, Request of the Legal Representative of Victims to Withdraw One Witness from Its Witness List, 11 August 2017 ('Application').

² See provisional transcript of 22 August 2017, p. 57.

³ F3116, Request of the Legal Representative of Victims to Call Witnesses and Tender Other Evidence and for Guidance on Its Disclosure Obligations, in Compliance with the Judge Rapporteur's 11 April 2017 Order, with Confidential Annexes A, B and C, 3 May 2017 (public with confidential annexes), para. 11 (ii).

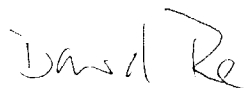
⁴ F3260, Decision on the Legal Representative of Victims' Application to Call Evidence, Schedule the Presentation of Evidence and Directions on Disclosure Obligations, 31 July 2017, para. 86, disposition.

⁵ Application, paras 8-9.


6. No leave from the Trial Chamber is needed for the proposed amendment to the Legal Representatives’ witness list. The Trial Chamber therefore acknowledges that the Legal Representatives no longer seek to have Dr Souaid’s evidence presented pursuant to Rules 87 (B) and 146 (A), and that his name will be removed from their witness list.⁶

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

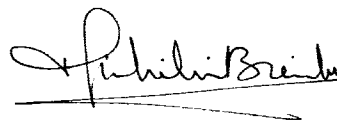
Leidschendam,
The Netherlands
23 August 2017



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy



⁶ There was no formal request from the Legal Representatives to have Dr Souaid added to their ‘amended and updated witness list’, filed on 3 May 2017. However, that filing, made pursuant to the Trial Chamber’s Presiding Judge’s order to file an updated witness and exhibit list and any request to present evidence, identified the new witnesses (*see* F3077, Order to Legal Representative of Participating Victims on Updated Witness and Exhibit List and Agreements as to Evidence, 11 April 2017). Unlike a Party’s witnesses, only the Trial Chamber can authorise the presentation of evidence from witnesses on the Legal Representatives’ list.