



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: 21 November 2017

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

ORDERS FOLLOWING THE AYYASH DEFENCE'S WITHDRAWAL OF ITS APPLICATION TO ACCESS CONFIDENTIAL MATERIAL IN THE CASE AGAINST AL JADEED [CO.] S.A.L./NEW T.V. S.A.L. (N.T.V.) AND KARMA MOHAMED TAHSIN AL KHAYAT

Office of the Prosecutor:

Mr Norman Farrell & Mr Alexander Hugh Milne

Counsel for Mr Salim Jamil Ayyash:

Mr Emile Aoun, Mr Thomas Hannis & Mr Chad Mair

Defence Office:

Mr François Roux

Counsel for Mr Hassan Habib Merhi:

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

Legal Representatives of Participating Victims:

Mr Peter Haynes, Mr Mohammad F. Mattar & Ms Nada Abdelsater-Abusamra

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 Robertson & Ms Sarah Bafadhel



1. On 18 September 2015, counsel for the Accused, Mr Salim Jamil Ayyash, requested the Trial Chamber to grant them access to all confidential, *inter partes* transcripts of hearings and filings in the *Case against Al Jadeed [Co.] S.A.L./New T.V. S.A.L. (N.T.V.) and Karma Mohamed Tahsin Al Khayat*, case STL-14-05.¹ Counsel for the former Accused, Mr Mustafa Amine Badreddine, joined the Ayyash Defence's application, additionally seeking access to 'all statements' in the *Case against Akhbar Beirut S.A.L. and Ibrahim Mohamed Ali Al Amin*, case STL-14-06.² The Prosecution responded on 29 September 2015 and the Ayyash Defence replied on 2 October 2015.³ Further to the Trial Chamber's invitation to the Parties in the STL-14-05 and STL-14-06 cases, the Defence for *Al Jadeed* S.A.L. and Ms Al Khayat and the *Amicus Curiae* Prosecutor in the *Al Jadeed* case also responded.⁴

2. On 26 October 2017, the Ayyash Defence withdrew its application, due to the imminent closure of the Prosecution case, the Prosecution's non-reliance on certain evidence and the finalisation of the proceedings in the *Al Jadeed* case. Counsel for Mr Ayyash submit that this is without prejudice to resubmitting an application for access to materials at a later stage, should the need arise.⁵

3. The Trial Chamber therefore notes the withdrawal of the 'Partly Urgent Ayyash Defence Request for Access to Confidential Material in The Case STL-14-05', filing F2208.

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2208, Partly Urgent Ayyash Defence Request for Access to Confidential Material in the Case STL-14-05, 18 September 2015 (confidential) (a public redacted version was filed on 21 September 2015).

² F2217, Badreddine Defence Joinder to the "Partly Urgent Ayyash Defence Request for Access to Confidential Material in the Case STL-14-05", 24 September 2015. The proceedings against Mr Badreddine were terminated on 11 July 2016 pursuant to an Appeals Chamber's order. *See* STL-11-01/T/AC/AR126.11, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F0019, Decision on Badreddine Defence Interlocutory Appeal of the "Interim Decision on the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings", 11 July 2016 (by majority, Judges Baragwanath and Nsereko dissenting); STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2633, Order Terminating Proceedings against Mustafa Amine Badreddine without Prejudice and Ordering the Filing of an Amended Consolidated Indictment, 11 July 2016. Paras 3, 48-51 of the amended consolidated indictment refer to Mr Badreddine as a co-conspirator (*see* STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F2720, Amended consolidated indictment, 12 July 2016).

³ STL-11-01/T/TC, *Prosecutor v. Ayyash, Badreddine, Merhi, Oneissi and Sabra*, F2227, Prosecution Response to "Partly Urgent Ayyash Defence Request for Access to Confidential Material in the Case STL-14-05" and Badreddine Defence Joinder, 29 September 2015 (confidential); F2243, Ayyash Defence Reply to Prosecution Response to Ayyash Motion for Access to Confidential Materials in the Case STL-14-05, 2 October 2015 (confidential). In its reply, the Ayyash Defence requested the Trial Chamber not to consider the Prosecution's response due to its lack of standing.

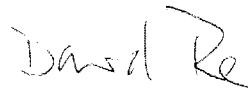
⁴ F2248, Submissions of the *Amicus Curiae* Prosecutor in the *Al Jadeed* Case on the Defence Request for Authorisation to Inspect Confidential Documents in the *Al Jadeed* Case, 5 October 2015 (confidential with confidential and *ex parte* annex); F2257, Al Jadeed and Khayat Defence Response to "Partly Urgent Ayyash Defence Request for Access to Confidential Material in the Case STL-14-05" and Badreddine Defence Joinder, 9 October 2015 (confidential).

⁵ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3383, Ayyash Defence Notice of Withdrawal of Filing F2208, 26 October 2017.

4. Reiterating the public nature of the proceedings, the Trial Chamber orders the Prosecution and the Ayyash Defence to either file public redacted versions of their response and reply or to have them reclassified as public. The Trial Chamber also orders the Head of Defence Office, under Rule 57 (E) (iv) of the Special Tribunal's Rules of Procedure and Evidence, and the Registrar, under Rule 48, to ensure that public redacted versions of the responses of, respectively, the Defence for *Al Jadeed* S.A.L. and Ms Al Khayat, and the *Amicus Curiae* Prosecutor in the *Al Jadeed* case, are filed.

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

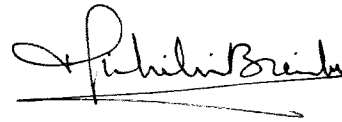
Leidschendam,
The Netherlands
21 November 2017



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

