



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: 7 December 2017

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

DECISION DENYING PROSECUTION REQUEST TO REDACT ‘DECISION GRANTING, IN PART, SABRA DEFENCE MOTION FOR THE ADMISSION OF DOCUMENTS RELATING TO MR AHMED ABU ADASS – CHARACTER, RELIGIOUS BELIEFS AND ASSOCIATES’ AND ASSOCIATED FILINGS

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

Legal Representatives of Participating Victims:

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

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 Robert & Ms Sarah Bafadhel



BACKGROUND, SUBMISSIONS AND DECISION

1. On 25 September 2017, the Trial Chamber granted, in part, a motion by counsel for the Accused, Mr Assad Hassan Sabra, and admitted into evidence 49 documents relating to the character, religious beliefs and associates of Mr Ahmed Abu Adass.¹ The following day, the Special Tribunal's Court Management Services Section (CMSS), after the Victims and Witnesses Unit raised concerns about the public nature of the decision, limited access to it and subsequently removed it from the Special Tribunal's website.² It remains classified as 'public'.

2. The Prosecution seeks to redact, among other things, the names of individuals, potentially identifying characteristics, descriptions of evidence, titles of decisions relating to specific witnesses and witness pseudonym numbers from the Trial Chamber's decision and the Parties' associated filings. The proposed redactions to the decision and the Prosecution's submissions are included in annexes A to C of its motion.³ The Sabra Defence opposes the proposed redactions in their entirety.⁴

3. The Trial Chamber has carefully reviewed the proposed redactions to its decision and does not agree that it is in the interests of justice to adopt any of them. As the Sabra Defence has rightly pointed out,⁵ many of the names appear on transcripts or documents that are publicly available and the Sabra Defence has, throughout the trial, repeatedly named those allegedly involved in the recruitment and disappearance of Mr Adass. In other instances, the Trial Chamber has rejected protective measures for witnesses, such as for Mr Ziad Ramadan

¹ F3337, Decision Granting, in Part, Sabra Defence Motion for the Admission of Documents Relating to Mr Ahmed Abu Adass – Character, Religious Beliefs and Associates, 25 September 2017. According to the Prosecutor's amended consolidated indictment, Mr Adass appeared in a video—at the behest of the Accused—in which he falsely claimed responsibility for the attack of 14 February 2005 which killed 22 persons, including former Lebanese Prime Minister Mr Rafik Hariri, and injured 226 others: STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F2720, Amended consolidated indictment, 12 July 2016, paras 3 (b)-(d), 5, 23, 28-29, 44, 48 (c), 64 (f), 66 (f), 68 (h), 70 (h).

² Email from CMSS to the Trial Chamber's senior legal officer, 26 September 2017.

³ F3350, Prosecution Submissions regarding Redactions for Public Versions of its Response of 22 March 2017, the Trial Chamber Decision of 25 September 2017 and the Sabra Defence Motion of 7 March 2017, 3 October 2017 (confidential with confidential annexes A-C) ('Prosecution motion'); F3350, Addendum to Prosecution Submissions regarding Redactions for Public Version of its Response of 22 March 2017, the Trial Chamber Decision of 25 September 2017 and the Sabra Defence Motion of 7 March 2017, 5 October 2017 (confidential) ('Prosecution addendum').

⁴ F3362, Sabra Defence Response to "Prosecution Submissions regarding Redactions for Public Versions of its Response of 22 March 2017, the Trial Chamber Decision of 25 September 2017 and the Sabra Defence Motion of 7 March 2017", 17 October 2017 (confidential with confidential annex A) ('Sabra response').

⁵ See Sabra response, annex A.

(Witness PRH103).⁶ It is not convinced that the nature of the information contained in the decision regarding other Prosecution witnesses warrants the requested redactions.

4. Concerning the proposed redactions to the Parties' related filings,⁷ the Prosecution and the Sabra Defence are ordered to reconsider them, in cooperation, in light of this decision. The Parties should also consider the necessity of any redactions to the non-operative—but related—filings and their respective annexes.⁸

CONFIDENTIALITY

5. The Prosecution requests its motion and addendum, and presumably also the annexes to its motion, to remain confidential.⁹ The Sabra does not respond but notes that its response and annex were filed confidentially in light of the Prosecution's classification of its submissions.¹⁰

6. The Trial Chamber orders the Parties, working collaboratively, to consider anew—in light of this decision—whether any redactions are still needed to the Prosecution's motion and addendum and the Sabra Defence's response and their respective annexes. The Parties should file public redacted versions of these filings or apply to have them reclassified as public.

⁶ See F3366, Decision Denying Prosecution Motion for Protective Measures for Witness PRH103, 20 October 2017.

⁷ Namely, F3024, Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass with updated annexes, 7 March 2017; F3047, Prosecution Response to Sabra “Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass with updated annexes”, 22 March 2017 (confidential); F3047, Prosecution Response to Sabra “Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass with updated annexes” – Annex C, 22 March 2017 (confidential).

⁸ Namely, F2914, Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass, 16 December 2016 (confidential with confidential annexes A-C); F2943, Prosecution Response to Sabra “Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass”, 18 January 2017 (confidential with confidential annexes A-C); F2957, Reply to “Prosecution Response to Sabra ‘Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, Religious Beliefs and Associates of Ahmed Abu Adass’”, 27 January 2017 (confidential); F2914, Addendum to “Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass”, 8 February 2017 (confidential with confidential annexes A-C); F3011, Prosecution Response to Sabra Addendum to “Motion for the Admission of Documents Relating to the Claim of Responsibility – Character, religious beliefs and associates of Ahmed Abu Adass”, 23 February 2017 (confidential). See Prosecution motion, para. 17 (i)-(v).

⁹ Prosecution motion, para. 18; Prosecution addendum, para. 4.

¹⁰ Sabra response, para. 23.

DISPOSITION

FOR THESE REASONS, the Trial Chamber:

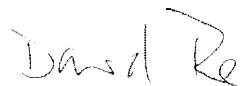
DENIES the Prosecution motion;

INSTRUCTS the Registry to restore public access to F3337, Decision Granting, in Part, Sabra Defence Motion for the Admission of Documents Relating to Mr Ahmed Abu Adass – Character, Religious Beliefs and Associates, 25 September 2017;

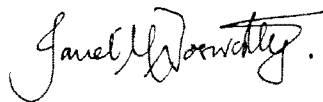
ORDERS the Prosecution and the Sabra Defence—in cooperation—to reconsider the necessity of redactions to the related filings to the Trial Chamber’s decision and to consider the necessity of redactions to the non-operative but related filings as per paragraph 4 above; and

ORDERS the Parties, in cooperation, to file a public redacted version of the Prosecution’s motion and addendum—to the extent feasible—and the Sabra Defence’s response and their respective annexes, or apply for their reclassification as public.

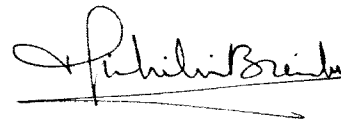
Leidschendam,
The Netherlands
7 December 2017



Judge David Re, Presiding



Judge Janet Nosworthy



Judge Micheline Braidy

