



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:** 12 January 2018

**Original language:** English

**Classification:** Public

**THE PROSECUTOR**

v.

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

**ORDER RELATING TO SABRA DEFENCE OBSERVATIONS ON  
‘PROSECUTION UPDATE REGARDING PRH024 PURSUANT  
TO THE ORDER OF 14 SEPTEMBER 2017’**

**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. On 1 May 2017, the Trial Chamber, by majority, declared the statement of Witness PRH024 admissible under Rule 158 of the Special Tribunal's Rules of Procedure and Evidence, finding that the witness was untraceable and therefore unavailable. It also held that 'the Prosecution must continue, with the assistance of the Lebanese Government, its diligent efforts to secure the witness' attendance during the course of the trial'.<sup>1</sup>

2. On 19 September 2017, following a Trial Chamber order seeking an update on these efforts, the Prosecution informed the Trial Chamber that it had received no information that the witness had returned to Lebanon. The Prosecution had requested and received information from the Lebanese authorities on the witness's entry into and exit from Lebanon, and had attempted, between 14 and 18 September 2017, to contact the witness on the landline and mobile telephone numbers known to the Prosecution. The Prosecution planned to continue requesting entry and exit information from the Lebanese authorities on a quarterly basis. Counsel for the Accused, Mr Assad Hassan Sabra, then filed observations on the Prosecution's update, questioning the diligence of its efforts and observing 'that both the Chamber and the Defence would be better served by bi-weekly updates from the Prosecution detailing the continuous and diligent efforts it has undertaken'. The Prosecution opposed the observations.<sup>2</sup>

3. The Trial Chamber notes the Sabra Defence's observations, but agrees with the Prosecution that bi-weekly updates on its efforts to secure Witness 024's attendance are unnecessary. The Trial Chamber would, however, appreciate receiving an update from the Prosecution by Friday, 26 January 2018. Finally, noting the Parties' submissions on the classification of their filings,<sup>3</sup> the Trial Chamber maintains the confidential status of the documents supporting the Prosecution's update and **orders** the Parties to file public redacted

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<sup>1</sup> STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3107, Corrected Version of "Decision on 'Prosecution Motion to Admit the Statement of PRH024 under Rule 158' – with Partially Dissenting Opinion of Judge David Re" dated 28 April 2017, 1 May 2017, para. 40, disposition. The Trial Chamber rejected a Sabra Defence request for certification to appeal the 1 May 2017 decision; see F3328, Decision Denying 'Sabra Request for Certification to Appeal Decision Admitting Statement of PRH024 under Rule 158', 15 September 2017. The Trial Chamber then formally admitted Witness 024's statement into evidence as exhibit P2103; see transcript of 22 September 2017, p. 89.

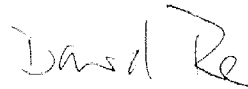
<sup>2</sup> F3323, Order to Prosecution to Update the Trial Chamber on Its Continuing Efforts to Secure Witness PRH024's Attendance for Cross-Examination, 14 September 2017; F3331, Prosecution Update regarding PRH024 pursuant to the Order of 14 September 2017, 19 September 2017 (confidential) ('Prosecution update'); F3346, Observations on "Prosecution Update Regarding PRH024 Pursuant to the Order of 14 September 2017", 3 October 2017 (confidential) ('Sabra Defence observations'); F3354, Prosecution Response to the Sabra Defence "Observations on 'Prosecution Update regarding PRH024 pursuant to the Order of 14 September 2017'", 6 October 2017 (confidential) ('Prosecution response').

<sup>3</sup> Prosecution update, paras 13-15; Sabra Defence observations, para. 11; Prosecution response, para. 17.

versions of their respective filings—making only redactions that are necessary in light of the existing provisional protective measures—or to have them reclassified as public.

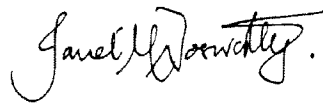
Done in Arabic, English, and French, the English version being authoritative.

Leidschendam,  
The Netherlands  
12 January 2018



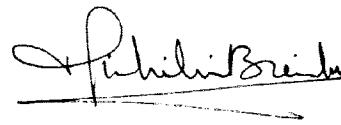
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Judge David Re, Presiding



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Judge Janet Nosworthy



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Judge Micheline Braidy

