

**THE TRIAL CHAMBER**

**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 February 2018

**Original language:** English

**Classification:** Public

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**THIRD SCHEDULING ORDER REGARDING SUBMISSIONS UNDER RULE 167**

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(Extract from Official Public Transcript of Hearing on 22 February 2018, page 9, line 4 to page 10, line 18)

The Prosecution and the Defence of the accused, Mr. Hussein Hassan Oneissi, are ordered to file by Tuesday, 27th of February, 2018, written submissions on no more than 10 pages on the sufficiency or insufficiency of evidence on each of the counts with which Mr. Oneissi is charged on the amended consolidated indictment.

The submissions must be directed towards the sufficiency of evidence capable of sustaining a conviction on each count and refer, in general terms at least, but with relevant specificity where necessary, to the evidence supporting or lacking on each count.

The submissions must strictly comply with the legal standards for applications for judgements of acquittal under Rule 167 of the Special Tribunal's Rules of Procedure and Evidence, as outlined by the Trial Chamber in court on the 20th of February, 2018, at pages 14 to 19 of the transcript.

The relevant legal test is whether there is evidence on each of the elements of the offences charged on which an accused could be convicted. If there is not, the Trial Chamber at the close of the Prosecutor's case must acquit the accused.

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In the case of the Oneissi Defence, counsel must refer to and analyse the existence or non-existence of the evidence led by the Prosecution on each count and must not refer to credibility of the evidence or the weight the Trial Chamber could give to it in assessing whether an accused person is guilty beyond reasonable doubt unless it falls within the exceptional category of the evidence being incapable of belief. Submissions going to the weight of the evidence, its credibility, or any matters not on the court record, will be disregarded in deciding the application for acquittal under Rule 167.

The Trial Chamber also requires further brief legal submissions on the elements of complicity (aiding and abetting) in Article 219 of the Lebanese Criminal Code as referred to at paragraphs 218 to 222 of the Appeals Chamber's "Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perception, Cumulative Charging," of February 16th 2011, as discussed in court on the 21st of February, 2018, at pages 86 to 103 of the transcript. These should also be addressed in these submissions.

Finally, counsel for the remaining three accused - Mr. Salim Jamil Ayyash, Mr. Assad Hassan Sabra, and Mr. Hassan Habib Merhi – also are invited to make any relevant legal submissions on this point; namely Article 219 of the Lebanese Criminal Code and paragraphs 218 to 228 of the Appeals Chamber's decision.

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