



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 February 2018

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

SCHEDULING ORDER TO THE DEFENCE UNDER RULE 128

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 Prosecution closed its case against the four Accused on 7 February 2018. The Trial Chamber, on 20 and 21 February 2018, heard oral submissions from counsel for the Accused, Mr Hussein Hassan Oneissi, on an application to enter a judgement of acquittal with respect to Mr Oneissi under Rule 167 of the Special Tribunal's Rules of Procedure and Evidence.
2. On 21 and 22 February 2018, the Prosecution made oral submissions in relation to the sufficiency of evidence in their case against Mr Oneissi and the Accused, Mr Salim Jamil Ayyash. The Trial Chamber then ordered further written submissions from the Prosecution and counsel for Mr Oneissi by 27 February 2018.¹
3. The Trial Chamber, at the close of the oral submissions, informed the Parties that it would deliver either a reasoned oral decision dismissing the Oneissi Defence application, or alternatively, an oral judgement of acquittal with written reasons to follow, as soon as it could.²
4. Counsel for the Accused, Mr Ayyash, Mr Hassan Habib Merhi and Mr Assad Hassan Sabra have informed the Trial Chamber that they were not making applications for judgements of acquittal under Rule 167.³
5. Rule 128 'Functions that May Be Exercised after Close of the Prosecutor's Case' provides,

After the close of the Prosecutor's case and upon a Defence election to present its case, the Trial Chamber shall order the Defence to file the following:

(i) a list of witnesses the Defence intends to call with:

- (a) the name or pseudonym of each witness;
- (b) a summary of the facts on which each witness is expected to testify;
- (c) the points in the indictment as to which each witness is expected to testify, including specific reference to counts and relevant paragraphs in the indictment;
- (d) the total number of witnesses and the number of witnesses who are expected to testify for each accused and on each count;

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, provisional transcript of hearing on 22 February 2018, pp 9-10.

² Provisional transcript of hearing on 22 February 2018, pp 44-45.

³ Transcript of hearing on 7 February 2018, pp 72-73; provisional transcript of hearing on 20 February 2018, pp 8-13.

(e) an indication as to whether the witness will testify in person or pursuant to Rules 93, 123, 124, 125, 155, 156, 157 and 158;

(f) the estimated length of time required for examination in chief of each witness and the total time estimated for presentation of the Defence's case; and

(ii) a list of exhibits the Defence intends to offer in its case, stating, where possible, whether the Prosecutor has any objection as to authenticity. The Defence shall serve on the Prosecutor copies of the exhibits so listed.

6. As the Prosecution case is closed and a decision or judgement under Rule 167 is pending, the Trial Chamber makes the orders below to the Defence of the four Accused. Obviously, these apply only if the Trial Chamber decides not to enter a judgement of acquittal with respect to any Accused.

7. If counsel for the Accused elect to present a Defence case, they are ordered to file all documents referred to, and to take all actions referred to, in Rule 128 by **Wednesday 7 March 2018**. If Defence counsel elect to present a case, the Trial Chamber will hold a Pre-Defence Conference, under Rule 129, shortly thereafter, at which it will issue 'directions necessary or desirable to ensure a fair, impartial and expeditious trial'.

8. After receiving submissions, the Trial Chamber will allow the Prosecution the reasonable time necessary to prepare for any Defence cases. However, given the time elapsed since the calling of substantive evidence and the close of the Prosecution case—and, additionally, that Defence counsel must know the content of any Defence case—the Defence must be in a position to present their evidence immediately after any Pre-Defence Conference.

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

Leidschendam,
The Netherlands
23 February 2018

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

