



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: 11 April 2018

Original language: English

Classification: Public

THE PROSECUTOR
v.
SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA

**SCHEDULING ORDER FOR FINAL TRIAL BRIEFS AND CLOSING ARGUMENTS
UNDER RULE 147**

Office of the Prosecutor:
Mr Norman Farrell & Mr Nigel Povoas

**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 Robertson
Ms Sarah Bafadhel



1. Under Rule 147 of the Special Tribunal’s Rules of Procedure and Evidence, after the presentation of all the evidence, the Prosecutor, the participating victims and the Defence may present closing arguments. Further, ‘each Party and the victims participating in the proceedings may file a Final Trial Brief no later than five days prior to presenting closing arguments’.

2. The Prosecution closed its case against the four Accused on 7 February 2018.¹ On 7 March 2018, the Trial Chamber delivered a decision under Rule 167 on an application by the Defence of Mr Hussein Hassan Oneissi to acquit him on all counts charged in the amended consolidated indictment.² No other Accused made applications under the Rule.

3. After the Trial Chamber declined to acquit Mr Oneissi on 7 March 2018—and pursuant to an order to all Defence counsel issued on 23 February 2018—the Oneissi Defence filed its witness and exhibit lists under Rule 128 ‘Functions that May Be Exercised after Close of the Prosecutor’s Case’.³ Only the Defence of Mr Oneissi has elected to call a defence. It consists of one expert witness and his expert report, and a political witness.

4. The Trial Chamber subsequently held Pre-Defence Conferences under Rule 129, on 8 and 22 March 2018, and thereafter scheduled the hearing of the Oneissi Defence case between 10 and 20 April 2018.⁴ In this scheduling order, the Trial Chamber stated that,

the substantive evidence was completed in October 2017, and the Prosecution case closed on 7 February 2018. The Parties should thus well know their respective cases. The Trial Chamber therefore expects the final trial briefs to be filed in May 2018. The Trial Chamber notes, however, that the Prosecution stated that it needed until July 2018 to file its brief.⁵

5. The Prosecution has subsequently filed submissions arguing that it needs until 27 July 2018 *at the earliest* to file its final trial brief, and that the Parties and Legal Representatives of Victims should file their submissions simultaneously with time for responses.⁶ Counsel for

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, transcript of hearing on 7 February 2018, p. 69.

² Decision on the Oneissi Defence Application for a Judgment of Acquittal under Rule 167 (A), transcript of 7 March 2018, pp 3-52.

³ F3583, Scheduling Order to the Defence under Rule 128, 23 February 2018; and F3596, Defence for Hussein Hassan Oneissi Submission Pursuant to the Trial Chamber’s Scheduling Order of 23 February 2018, 7 March 2018 (public with confidential annexes).

⁴ F3608, Scheduling Order for Hearing the Oneissi Defence Case Between 10 and 20 April 2018, 23 March 2018 (‘Scheduling order for the Defence case’).

⁵ Scheduling order for the Defence case, para. 24 (internal footnotes omitted).

⁶ F3617, Prosecution Submission for All Final Trial Briefs to be Filed No Earlier Than 27 July 2018, 5 April 2018.

the four Accused had each stated a preference for receiving a final trial brief from the Prosecution before responding to it four weeks later. The Legal Representative of Victims had a similar preference but stated that he would file his brief after the Prosecution's and before the Defences' briefs.⁷

6. The Trial Chamber has carefully considered these submissions. However, acceding to the Prosecution's request would result in oral closing arguments not occurring until August 2018—more than six months after the close of the Prosecution's case. Another relevant consideration is that the Trial Chamber has attempted to guide the Parties in case management meetings over the last year to be prepared to file their final trial briefs within a reasonable period after the close of the evidence. In these circumstances—and notwithstanding the factual complexity and length of the case—the Trial Chamber is of the view that the period sought by the Prosecution is excessive, and that filing the brief at the beginning of June 2018 would be reasonable.

7. The Trial Chamber also considers that the simultaneous filing of final trial briefs would expedite the proceedings, but without prejudicing any Party or the participating victims, as each may respond to the other's submissions before oral closing arguments are heard.

8. The Trial Chamber therefore orders the Parties and participating victims to file their final trial briefs by **Monday 4 June 2018** with any responses by **Monday 18 June 2018**. The Trial Chamber will hear oral closing arguments in the weeks of **Monday 25 June to Friday 6 July 2018**. The Trial Chamber has permitted the Prosecution to file a written brief of up to 150,000 words and the Defence and participating victims to exceed the 30,000 words otherwise permitted under the Practice Direction.⁸

⁷ Transcript of hearing on 22 March 2018, pp 40-50.

⁸ STL/PD/2010/01/Rev.2, Practice Direction on the filing of documents before the Special Tribunal for Lebanon, Article 5 (1) (g); *see* Scheduling order for the Defence case, para. 27.

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

Leidschendam,
The Netherlands
11 April 2018

David Re

Judge David Re, Presiding

Janet Nosworthy

Judge Janet Nosworthy

Micheline Braidy

Judge Micheline Braidy

