



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: 8 May 2018

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

**ORDER TO SABRA DEFENCE TO PROVIDE INFORMATION ON THE
RELEVANCE AND PROBATIVE VALUE OF 20 INTENDED RULE 165
WITNESS STATEMENTS**

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 Roberts
Ms Sarah Bafadhel



1. The Prosecution closed its case on 7 February 2018.¹ On 22 March, counsel for the Accused Mr Assad Hassan Sabra formally informed the Trial Chamber, in court, that they were not intending to present a case.²
2. The Sabra Defence has now—almost seven weeks later—filed a motion asking the Trial Chamber to order the production of additional material under Rule 165 of the Special Tribunal’s Rules of Procedure and Evidence in the form of 20 witness statements and five documents.³ This relates to the evidence of a Prosecution investigator, Mr Andrew Donaldson (Witness PRH230), who testified extensively during the Prosecution case. Rule 165 permits the Trial Chamber—after hearing the parties—to order a party or a victim participating in the proceedings to produce additional evidence, or *proprio motu* to summon a witness to attend court. The Trial Chamber has acceded to an application by the Sabra Defence—filed on 5 March—to call one witness under Rule 165, the Prosecution’s former Chief of Investigations, Mr Michael Taylor.⁴
3. Annex B to the motion lists the five documents—all of which are responses to Sabra Defence requests for assistance sent to Lebanese Government and telecommunications entities—accompanied by a short summary of each document’s ‘relevance and probative value’ and ‘indicia of reliability’. Annex A to the motion lists the proposed witness statements, but this list is accompanied only by a corresponding short description headed ‘reliability of statement’.
4. To assist the Trial Chamber, the Sabra Defence is ordered to provide a similar table of relevance and probative value in relation to each of the 20 witness statements by **Friday 11 May 2018**.

¹ STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, transcript of 7 February 2018, pp 68-69.

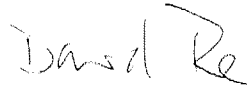
² Transcript of 22 March 2018, p. 4.

³ F3649, Sabra Defence Request Pursuant to Rule 165 in relation to PRH230, 7 May 2018 (public with confidential annexes A-B). These witness statements were the subject of the Trial Chamber’s decision in F3498, Decision Denying Sabra Defence Motion to Admit into Evidence Twenty Witness Statements, 20 December 2017.

⁴ F3646, Decision Partly Granting Sabra Defence Application and Ordering the Attendance of a Former Prosecution Investigator to Testify under Rule 165, 13 April 2018. The Trial Chamber made the decision on 12 April and filed it on 13 April, but the effect of an unsuccessful application by the Oneissi Defence to disqualify the three Trial Chamber judges under Rule 25 (A) meant that, by virtue of Rule 25 (D), the judges could not participate in the proceedings until the application was decided. This occurred three weeks later on 4 May, see STL-11-01/T/OTH/R25, F3645, Decision on Oneissi Defence Rule 25 Motion for the Disqualification and Withdrawal of Presiding Judge David Re, Judge Janet Nosworthy, and Judge Micheline Braidy, 4 May 2018, and the decision F3646 was filed and distributed on 7 May.

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

Leidschendam,
The Netherlands
8 May 2018



Judge David Re, Presiding

