



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 December 2019

**Original language:** English

**Classification:** Public

**THE PROSECUTOR**

v.

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

**ORDERS REGARDING DECLASSIFICATION OF EXHIBITS**

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

**Counsel for Mr Salim Jamil Ayyash:**  
Mr Emile Aoun, Mr Thomas Hannis &  
Mr Chad Mair

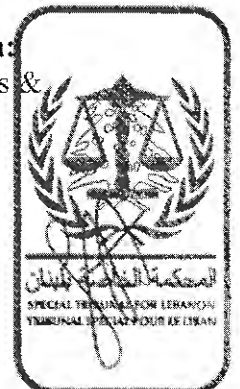
**Legal Representatives of  
Participating Victims:**  
Mr Peter Haynes, Mr Mohammad F. Mattar  
& Ms Nada Abdelsater-Abusamra

**Counsel for Mr Hassan Habib Merhi:**  
Mr Mohamed Aouini & Mr Jad Youssef Khalil

**Counsel for Mr Hussein Hassan Oneissi:**  
Mr Vincent Courcelle-Labrousse, Mr Yasser  
Hassan & Ms Natalie von Wistinghausen

**Deputy Head of Defence Office:**  
Ms Hélcyn Uñac

**Counsel for Mr Assad Hassan Sabra:**  
Mr David Young, Mr Geoffrey Roberts &  
Ms Sarah Bafadhel



1. Consistent with the principles of international human rights governing the public nature of court proceedings,<sup>1</sup> Article 16 (2) of the Statute of the Special Tribunal for Lebanon<sup>2</sup> and Rule 136 of the Rules of Procedure and Evidence,<sup>3</sup> the Trial Chamber ordered the Parties and the Legal Representatives of Victims to reach agreement with respect to the declassification of the documents admitted into evidence and marked as ‘confidential’ during the trial. It ordered the Deputy Head of the Defence Office to proceed in the same way with respect to the exhibits tendered by the Defence of the former Accused, Mr Mustafa Amine Badreddine.<sup>4</sup>

2. Based on the order, the Parties, the Legal Representatives and the Defence Office informed the Trial Chamber that they had generally reached agreement with respect to proposed redactions to the exhibits where necessary. Discussions between the Prosecution and the Sabra Defence continued at the time of the filing of the progress reports regarding the implementation of agreed principles guiding the redaction of 36 exhibits<sup>5</sup> and with respect to the extent of redactions to two documents, exhibit 5D254, an internal memorandum of United Nations International Independent Investigation Commission, and exhibit 5D418, investigators notes of Prosecution analyst, Mr Andrew Donaldson, on the identification of mobile telephone networks.<sup>6</sup> The Prosecution added<sup>7</sup> that it had limited the scope of its review to 1030

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<sup>1</sup> See e.g., Article 14 (1) of the International Covenant on Civil and Political Rights which states, relevantly, that ‘In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.’ Article 10 of the Universal Declaration of Human Rights provides that ‘Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.’ Article 6 (1) of the European Convention on Human Rights foresees that ‘In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.’

<sup>2</sup> Article 16 (2) of the Statute recognises that ‘The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Tribunal for the protection of victims and witnesses.’

<sup>3</sup> Rule 136 states that ‘All proceedings before a Chamber, other than deliberations of the Chamber, shall be held in public, unless otherwise decided by the Chamber after hearing the Parties.’

<sup>4</sup> STL-11-01/T/TC, *Prosecutor v. Ayyash, Merhi, Oneissi and Sabra*, F3777, Decision and Orders relating to the Public Nature of the Proceedings and Reclassifying Filings from ‘Confidential’ to ‘Public’, 20 September 2019, paras 4, 6.

<sup>5</sup> See F3790, Prosecution Notice in relation to the Trial Chamber’s “Decision and Orders Relating to the Public Nature of the Proceedings and Reclassifying Filings from ‘Confidential’ to ‘Public’”, 4 October 2019 (‘Prosecution progress report’), footnote 6.

<sup>6</sup> F3783, Progress Report on Remaining Confidential Exhibits, 3 October 2019, paras 3-4; F3786, Merhi Defence Notification in Response to the Chamber’s Order of 20 September 2019, 4 October 2019, para. 3; F3788, Ayyash Defence Notice pursuant to the Trial Chamber Decision and Orders of 20 September 2019, 4 October 2019 para. 2; F3789, Defence for Hussein Hassan Oneissi Submission Pursuant to “Decision and Orders Relating to the Public Nature of the Proceedings and Reclassifying Filings from ‘Confidential’ to ‘Public’”, dated 20 September 2019, 4 October 2019, para. 2; Prosecution progress report, paras 3-5; F3792, Defence Office Report regarding the confidential exhibits and documents filed by the Badreddine Defence team in the trial, submitted in accordance with the Trial Chamber’s Order of 20 September 2019, 4 October 2019, paras 5-6; F3793, Sabra Defence Progress Report on Review of Confidential Filings and Exhibits, 4 October 2019, paras 2-3.

<sup>7</sup> Prosecution progress report, para. 3.

confidential exhibits—comprising 2257 documents—which it had referenced in its final trial brief.<sup>8</sup>

3. The Registry's Court Management Services Section has been coordinating with the Parties, Participants and the Information Services Section regarding the technical aspects of making the exhibits public. It anticipated that the process would possibly involve 3,432 documents, and recommended a procedure—as set out below—to facilitate the automated processing of the documents in the Special Tribunal's electronic filing system, Legal Workflow. This included that only the essential metadata, such as the exhibit number, the evidence status ('admitted') and the classification, are displayed with respect to the new items.<sup>9</sup>

4. To assist the Registry in the implementation of the declassification of exhibits, the Trial Chamber **orders** the Parties and Legal Representatives to file detailed reports **by Tuesday 17 December 2019** in the form of lists generated through Legal Workflow, as follows:

- A list of confidential exhibits (items) which do not require redactions and can be made public;
- A list of public exhibits (items) which require further redactions and should therefore be made confidential;
- A list of confidential exhibits (items) for which a (new) public redacted version will be submitted; and
- A list of confidential exhibits (items) which should remain confidential.

5. Each list should also contain in separate columns the following information:

- The electronic registration numbers (ERN) of the exhibit (item);
- The title of the presentation queue under which the exhibit (item) was uploaded to Legal Workflow;
- The exhibit number that has been assigned to the document or that will have to be assigned to a new public redacted version;
- The original title of the exhibit, and a proposed new title, where appropriate;
- The language in which the document was created; and
- The current and final classification of the exhibit (item), including specific instructions to the Registry:

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<sup>8</sup> F3713, Corrected Version of the Prosecution Final Trial Brief, filed 16 July 2018, 27 July 2018 (confidential). The Prosecution filed a public redacted version on 7 August 2018.

<sup>9</sup> The Chief of the Court Management Services Section communicated this to the Trial Chamber through its senior legal officer in an internal memorandum on 6 December 2019.

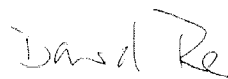
- To reclassify the exhibit (item) to public or confidential;
- To keep its confidential status; or
- Any other instruction as deemed appropriate, such as amending the exhibit title.

6. As before, the Trial Chamber **orders** the Deputy Head of Defence Office to proceed in the same way with respect to exhibits tendered by the Badreddine Defence. Additionally, it **orders** the Prosecution to complete the review of its remaining exhibits as soon as possible.

7. The Trial Chamber **authorises** the Registry to process the documents and complete the declassification of the exhibits on Legal Workflow. To expedite the process, it permits the Registry to proceed with displaying the minimum necessary metadata of the new items.

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

Leidschendam,  
The Netherlands  
12 December 2019



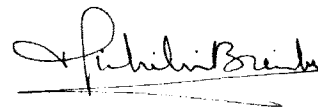
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Judge David Re, Presiding



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Judge Janet Nosworthy



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Judge Micheline Braidy

