

BEFORE 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

The Registrar: Mr Daryl Mundis

Date: 18 July 2016

Filing party: The Head of Defence Office

Original language: French

Classification: Public

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

Corrected Version of the “Notice of the Termination of Assignment of Mr Antoine Korkmaz, Mr Iain Edwards and Ms Mylène Dimitri, Lead Counsel and Co-Counsel respectively of the Defence team for Mr Mustafa Amine Badreddine” dated 15 July 2016

Office of the Prosecutor:
Mr Norman Farrell

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

Defence Office:
Mr François Roux

Counsel for Mr Hassan Habib Merhi:
Mr Mohamed Aouini, Ms Dorothée Le Fraper
du Hellen & Mr Jad Khalil

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

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 Guénaél Mettraux
Mr Geoffrey Roberts



I. INTRODUCTION

1. On 2 February 2012, the Head of Defence Office assigned Mr Antoine Korkmaz, lawyer registered with the Paris Bar (France), as Lead Counsel to represent the rights and interests of the Accused Mr Mustafa Amine Badreddine in the *in absentia* proceedings brought against him before the Special Tribunal for Lebanon (“Tribunal”) in the *Ayyash et al.* case.¹
2. On 31 December 2013 and 21 September 2015, he assigned respectively Mr Iain Edwards, lawyer registered with the Bar of England and Wales,² and Ms Mylène Dimitri, lawyer registered with the Bar of Quebec (Canada),³ as Co-Counsel alongside Mr Korkmaz.
3. The trial in the *Ayyash et al.* case began on 16 January 2014.⁴ However, following the announcement of the death of Mr Badreddine on 13 May 2016, the Defence team representing his rights and interests requested the Trial Chamber, on 31 May and 1 June 2016, to immediately terminate the proceedings against him.⁵
4. On 1 June 2016, the Trial Chamber issued an oral majority decision finding that there was not yet sufficient evidence to establish with certainty that Mr Badreddine was dead.⁶
5. On 11 July 2016, the Appeals Chamber reversed that decision and ordered the Trial Chamber to terminate the proceedings brought against Mr Badreddine, without prejudice to

¹ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/PTJ, F0113, Assignment of Counsel for the Proceedings Held *In Absentia* Pursuant to Rule 106 of the Rules, 2 February 2012.

² STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/HDO, F1290, Assignment of a Second Co-Counsel, 31 December 2013;

³ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, F2210, Assignment of Ms Mylène Dimitri as Second Co-counsel to the Defence Team of Mr Mustafa Amine Badreddine, 21 September 2015.

⁴ STL, *Prosecutor v. Ayyash et al.*, STL-11-01, transcript of the hearing, 16 January 2014.

⁵ STL, *Prosecutor v. Ayyash et al.*, STL-11-01, transcript of the hearing, 31 May and 1 June 2016.

⁶ STL, *Prosecutor v. Ayyash et al.*, STL-11-01, transcript of the hearing, 1 June 2016, p. 57 (FR). The written reasons for the majority decision, as well as those of the dissenting opinion, were provided on 7 and 8 June 2016 respectively: STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, F2612, Reasons for interim decision on the death of Mr Mustafa Amine Badreddine and possible termination of proceedings, 7 June 2016 and STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, F2616, Dissenting Opinion of Judge Micheline Braïdy on the Trial Chamber’s Interim Decision Regarding the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings, 8 June 2016.

the possibility of re-opening the proceedings if evidence that he is alive were to be presented in the future.⁷

6. In that context, the same day, the Trial Chamber issued an order declaring the termination of the proceedings against Mr Badreddine and ordered the Prosecutor to file an amended indictment under Rule 71 (A) (iii) of the Rules of Procedure and Evidence (“Rules”).⁸

II. NOTICE OF THE TERMINATION OF ASSIGNMENT

7. The Head of Defence Office hereby takes note of the Decision of the Trial Chamber dated 11 July 2016 declaring the termination of the proceedings against Mr Mustafa Amine Badreddine.⁹

8. The natural consequence of the termination of the proceedings against Mr Badreddine is the end of the mandate for Counsel assigned to represent his rights and interests in the proceedings brought against him before the Tribunal.

9. The Head of Defence Office therefore thanks all the Counsel for the Defence of Mr Badreddine, and the persons who assisted them throughout these four years of proceedings, for their work. They have all contributed to establishing the truth and have thereby participated in the work of justice and thus in the Tribunal’s mandate.

10. The Head of Defence Office reminds counsel who have represented the rights and interests of Mr Badreddine of the provisions of the Code of Professional Conduct for Counsel Appearing Before the Tribunal and of the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the Special Tribunal for Lebanon, which set out their duty to preserve professional confidentiality and to protect the

⁷ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/AC/AR126.11, F0019-AR126.11, Decision on Badreddine Defence Interlocutory Appeal of the “Interim Decision on the Death of Mr Mustafa Amine Badreddine and Possible Termination of Proceedings”, 11 July 2016.

⁸ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, F2633, Order Terminating Proceedings Against Mustafa Amine Badreddine Without Prejudice and Ordering the Filing of an Amended Consolidated Indictment, 11 July 2016.

⁹ *Idem.*

confidentiality of the evidence and proceedings identified as such by the Tribunal.¹⁰ He considers that those professional obligations continue to be valid after termination of the proceedings against an accused.

11. The Head of Defence Office also recalls that the texts applicable to Defence Counsel require the maintenance and preservation of a “complete, secure and confidential, accurate, well-organised and indexed electronic or, where necessary, hard-copy case file”.¹¹ The Head of Defence Office considers that those professional obligations require, in the circumstances of this case, that the Badreddine Defence team, under the supervision of Lead Counsel, should now proceed to archiving the case file thus compiled, in accordance with the conditions required by Articles 15.1 and 15.4 of the Legal Aid Policy.

12. The Head of Defence Office considers that, taking account of the quantity of work carried out to date by the Badreddine Defence team and the suddenness with which the proceedings against Mr Badreddine have been terminated, it is in the interests of justice to grant a period of 90 days to counsel for Mr Badreddine to proceed with classifying and archiving the case file with a view to its preservation by Lead Counsel.¹²

¹⁰ Preamble and Article 5 of the Code of Professional Conduct for Counsel Appearing Before the Tribunal; Article 10 of the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the Special Tribunal for Lebanon.

¹¹ Article 33 (A) (ix) of the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the Special Tribunal for Lebanon; Articles 15.1 and 15.4 of the Legal Aid Policy.

¹² Article 15.3 of the Legal Aid Policy provides that Counsel for the Defence have 45 days to ensure transfer of the case file to replacement counsel. The Head of Defence Office considers, by analogy, that this provision also applies in cases where counsel must fulfil their duty to file the case file in the archives, following termination of proceedings against the person whose rights and interests they represent. However, taking into account the conditions described in paragraph 12 of this Notice, he considers it is in the interests of justice to double that period in the case at hand in order to archive the case file completely.

FOR THESE REASONS

The Head of Defence Office

13. **THANKS** Mr Antoine Korkmaz, Mr Iain Edwards and Ms Mylène Dimitri (“counsel”) for their major contribution to the Defence of the rights and interests of the Accused Mr Mustafa Amine Badreddine, to the work of justice and thus to the mandate of the Tribunal;

14. **NOTIFIES** counsel of the termination of their mandate to represent the rights and interests of Mr Mustapha Amine Badreddine in the present case;

15. **GRANTS** counsel a maximum period of 90 days to complete their task of archiving the Badreddine Defence case file, from 12 July 2016.

16. **INVITES** counsel to consult with him with respect to any practical and ethical issues relating to the termination of their mandate.

Without prejudice.

François Roux

[signature]

Head of Defence Office

Done at Leidschendam, 18 July 2016

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