

## **IV. THE LEBANESE INVESTIGATION**

### **Initial Measures**

39. To resolve a crime of this magnitude requires strong management capacity, clear roles, coordination and access to sufficient competency, manpower, equipment and means of assistance. The following brief outline reviews measures undertaken by the

Lebanese authorities in the period from the execution of the crime until UNIIC was established.

### **Investigative Judge**

40. Primary Military Investigative Judge Rasheed Mezher was responsible for the crime investigation during the period from 14 to 21 February 2005. On the latter date, a decision was taken by the Lebanese Government that the crime was a terrorist act targeting the Republic, which led to the case being transferred to a new competent court of jurisdiction, the highest Criminal Court in Lebanon, the Justice Council. A consequence of this decision was that a new investigative judge was appointed to lead the investigation, Judge Michel Abou Arraj, the representative of the Prosecutor General's Office.

41. Judge Mezher arrived at the crime scene less than an hour after the blast, accompanied by Judge Jean Fahd from the Prosecutor General's Office. He has described the situation at the crime scene as a chaos. His first decisions were to appoint the Assistant Chief of Beirut Police, General Naji Mulaeb, as the person in charge of the scene and to assign him the task of removing all dead bodies and wounded people from the scene, extinguish fires and, thereafter, to withdraw all people from the scene and close it off <sup>(witness statement)</sup>.

42. At 1700 hrs, Judge Mezher summoned a meeting with all the involved bodies, both from the Internal Security Forces and the Military, comprising in total 10 officers. During the meeting Judge Mezher distributed tasks for the different bodies and gave further directions for the course of the investigation <sup>(witness statement)</sup>.

43. The representatives from the Internal Security Forces during the meeting were: General Aouar as the acting Commander of the Judicial Police and Head of the Forensic Unit, General Mulaeb as acting Commander of the Beirut Police Force, General Salah Eid as the responsible person for the blast site and Lieutenant Colonel Fouad Othman in the capacity of the Head of the Information Division <sup>(witness statement)</sup>.

44. After the meeting, at approximately 1900 hrs, Judge Mezher returned to the crime scene for a second time. He was not satisfied with his observations at the crime scene, but hoped it should be better the next day since responsibilities had been distributed at the earlier meeting. The shortcomings consisted mainly of lack of equipment, means of assistance and experience. In addition, there was a lack of communication between the various bodies involved, the directions from the Investigative Judge were not followed and he did not receive proper feed-back concerning the progress in the investigation <sup>(witness statement)</sup>.

45. During the period of his functions as Investigative Judge, Judge Mezher summoned approximately 10 people to his office for interrogations, comprising staff from the St. George Hotel, Mr. Hariri's close protection officers, the father and mother of Mr. Abu Adass and some eyewitnesses. He also, in consultation with Judge Jean Fahd,

took the decision to request assistance from Switzerland regarding a forensic expert team to assist the Lebanese authorities in the investigation. When Judge Mezher left the function of Investigative Judge, 21 February 2005, no sustainable results had been achieved in the investigation.

46. The file was handed over to the new Investigative Judge, Judge Abou Arraj. Judge Abou Arraj was Investigative Judge for the investigation from 22 February to 23 March 2005. He was appointed by First Judge Tanios Khoury, at the Supreme Council, and the file was registered at Abou Arraj's office on 22 February 2005 <sup>(witness statement)</sup>. His first opinions when reviewing the file, were that the crime had been a terrorist attack that would require a long period of time and extensive investigative measures to be undertaken, in addition to the application of substantial resources. In his opinion, all the initial investigative measures had been performed in a professional and accurate way. He was surprised at the removal of the motorcade cars. He did not meet with Judge Mezher, but telephoned him whenever clarifications were needed <sup>(witness statement)</sup>.

47. During the period of Judge Abou Arraj's tenure as the Investigative Judge, the following measures were undertaken <sup>(compiled notes case file)</sup>.

| Date        | Measures                                                                                                                                                                                                                                                               | Affected persons                                                                                                                       |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 22 February | <ul style="list-style-type: none"> <li>Recording of the lawsuit</li> </ul>                                                                                                                                                                                             |                                                                                                                                        |
| 24 February | <ul style="list-style-type: none"> <li>Second Beirut Regional Detachment Record</li> <li>Inspection of St George's</li> <li>A summary of all military writs</li> <li>Signing writs: Sûreté Générale, Internal Security Forces, State Security, Intelligence</li> </ul> |                                                                                                                                        |
| 25 February | <ul style="list-style-type: none"> <li>The writ of the of the Special Criminal Investigation Section</li> <li>Investigations about the diggings in St George's area</li> <li>The writ of the Special Criminal Investigation Section: Notifications.</li> </ul>         | <ul style="list-style-type: none"> <li>Tayssir Abu Adass and First Adjutant Maher Daouk</li> </ul>                                     |
| 26 February | <ul style="list-style-type: none"> <li>Several reports were received among them: The inspection report and the report about moving the cars to Helou Barracks + interrogating the guards</li> </ul>                                                                    |                                                                                                                                        |
| 28 February | <ul style="list-style-type: none"> <li>Interrogation</li> <li>Statements of witnesses</li> </ul>                                                                                                                                                                       | <ul style="list-style-type: none"> <li>Tayssir Abu Adass</li> <li>Maher Daouk, Hassan Mohamed Ajuz and Amer Khaled Shehadeh</li> </ul> |

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                             |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28 February | <ul style="list-style-type: none"> <li>• Subpoenaing</li> <li>• Forensic Evidence Department: Asking for the assistance of foreign experts.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Rashid Hammud (at the hospital), Mohamed Queiny (former Prime Minister Rafik Hariri's bodyguards) and Tamer Lahib.</li> </ul>                                                                      |
| 1 March     | <ul style="list-style-type: none"> <li>• Giving the Head of the Fact finding mission to Lebanon FitzGerald the permission to look into the investigations.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                             |
| 2 March     | <ul style="list-style-type: none"> <li>• Interrogations of two witnesses</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>• Tamer Lahib and Mohamed Queiny.</li> </ul>                                                                                                                                                         |
| 3 March     | <ul style="list-style-type: none"> <li>• The reports of Mitsubishi Company were received + the catalogue of the Mitsubishi pick-ups + a list of the names of the parts and pieces found at the explosion site + a map showing (unclear).</li> <li>• Doctor Kawas report regarding the examination of Abdel-Hameed Ghalayini cadaver.</li> <li>• A report was received from the Army Intelligence about interrogations.</li> <li>• The report of Doctor Hussein Chahrour regarding the examination of Abdel-Hameed Ghalayini cadaver.</li> </ul> | <ul style="list-style-type: none"> <li>• Hussam Ali Mohsen, Ahmad Ammoura and Nabil Ghoub (unclear) regarding there relations with suspect Ahmad Abu Adass (Note: they were not arrested).</li> </ul>                                       |
| 5 March     | <ul style="list-style-type: none"> <li>• Subpoenaing witnesses (the first three were to be interrogated the 8<sup>th</sup> of March 2005. The others on the 9<sup>th</sup> of March 2005.</li> </ul>                                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• Engineer Makram Aouar, Hamad Mulaeb, Hussam Ali Mohsen, Mahmoud Baydoun (officer in the Sûreté Générale ), Afifi Abdallah Al-Hershi (unclear), Ghassan Ben Jeddou (Al-Jazeera Channel).</li> </ul> |
| 7 March     | <ul style="list-style-type: none"> <li>• Inspection of the contents of the cardboard boxes (Dalal Dargham)</li> <li>• Brigadier General Imad Kakour came and informed us about the investigations and took a copy of the</li> </ul>                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                             |

investigation report, Ziad Ramadan was with him.

- |          |                                                                                                                                                                                                                                                         |                                                                                                |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 8 March  | <ul style="list-style-type: none"><li>• We received: The DNA results and the maps of the crime scene.</li></ul>                                                                                                                                         |                                                                                                |
| 10 March | <ul style="list-style-type: none"><li>• The report of Al-Bourj Squad regarding the search for Abdel Hameed Ghalayini cadaver.</li></ul>                                                                                                                 |                                                                                                |
| 11 March | <ul style="list-style-type: none"><li>• The discussion of Lieutenant General Ziad Nasr + Captain Mitri Namar.</li><li>• Convocation of Hussam Mohsen</li><li>• Convocation of the Palestinian Marwan Abdel-Wahhab Kattan (unclear), 14/3/2005</li></ul> |                                                                                                |
| 14 March | <ul style="list-style-type: none"><li>• Urging the heads of the services not to remove rubbles.</li><li>• Statements of witnesses.</li><li>• Letter of the international Mission regarding the completion of its work.</li></ul>                        | <ul style="list-style-type: none"><li>• Jack Chalitta, Ali Amhaz and Marwan Koubtan.</li></ul> |

48. On 23 March 2005, Judge Abou Arraj stepped down from the post of Investigative Judge. The reason for this was the tense political atmosphere at this particular time: a lot of mistrust was being directed towards the Lebanese judiciary and criticism being leveled at the manner of the investigation. In addition, while in charge of the Hariri investigation, he also had to discharge his normal functions. The case was contaminated with political issues and during demonstrations in Beirut on 14 March 2005, he heard people mentioning his name in a critical manner <sup>(witness statement)</sup>.

49. At the time he left the post of Investigative Judge, the only achievement in the investigation was the Mr. Abu Adass lead, despite attempts to focus on the modus operandi of the explosion and to get all experts involved to come up with one consensus opinion <sup>(witness statement)</sup>.

50. Judge Abou Arraj was replaced by Investigative Judge Elias Eid, who as of October 2005, is still in charge of the investigation.

### **Internal Security Forces**

51. On 14 February 2005, General Ali Al-Hajj was the Head of the Internal Security Forces (ISF). He was promoted to the post in November 2004, allegedly appointed by the Syrians, he stepped down from the post during spring 2005 in the aftermath of the blast that killed Mr. Hariri. According to his statement, he was at his office when he was alerted about the blast. He immediately went to the crime scene by car. During the ride he called General Shahid Al-Khoury, Chief of the Services and Operations Division within

ISF, who told him that it was a huge blast. General Al-Hajj then ordered Mr. Khoury to send all responsible units to the scene. The units comprised the Forensic Unit under the command of General Hisham Aouar, the Explosives Unit under the command of General Abdel-Badie Al-Soussi and the Investigation Unit under the command of Lieutenant Colonel Fouad Othman. This was his only responsibility, to provide sufficient resources. After the arrival of the Investigative Judge, all ISF staff was under the command of the Judge and General Ali Al-Hajj could not interfere in the investigation <sup>(witness statement)</sup>.

52. In his opinion, the problems at the scene were related to the presence of too many different agencies, such as the Army, ISF, State Security and Public Security.

53. Later that afternoon, General Al-Hajj joined a meeting with the Higher Defence Council at the Presidential Palace. The meeting was chaired by the President. Other participants were the Minister of the Interior, the Minister of Defence, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Economy, the Deputy Prime Minister, the Minister of Public works, the Governor of Beirut and Commanders from the various security agencies. The meeting discussed the subject matter of the crime, its referral to the Judicial Council, and the ramifications of the crime.

54. After the meeting General Al-Hajj returned to his office: soon thereafter the Al-Jazeera TV channel broadcast a videotape, where Ahmad Abu Adass claimed responsibility for the blast and the killing of Mr. Hariri. From that time all available ISF resources, except those occupied with the crime scene work, were focused on the Abu Adass track.

### **Military Intelligence**

55. On 14 February 2005, General Raymond Azar was the Head of Military Intelligence. He was promoted to the post in December 1998 and stepped down during spring 2005 in the aftermath of the blast that killed Mr. Hariri. According to his statement, he was alerted about the blast by Colonel Mohamed Fehmi, Head of the Military Security Branch. He did not go to the crime scene, but followed the case in detail from his office, together with Colonel Albert Karam, the Chief of Beirut Intelligence Branch. He informed President Lahoud and General Ghazali about the blast at the time of its occurrence <sup>(witness statement)</sup>.

56. Personnel from Military Intelligence (mainly specialists in the field of explosives) visited the crime scene and conducted their part of the examination. They confirmed that the type of explosives used were TNT and the estimated amount to be some 300 kilograms. All concrete evidence found on the site was handed over later to the ISF (General Hisham Aouar) and to General Azar's knowledge there were some metal fragments and a gun. His opinion was that basically ISF, but also the Prosecutor General's Office and the Investigative Judge, had the overall responsibility for the crime investigation.

57. In the afternoon of 14 February 2005, General Azar attended the meeting at the Higher Defence Council. At the meeting, a presentation was made about the assassination of Mr. Hariri, with all the details that were available at that time. Each participant presented his own point of view.

58. At a later stage, his Directorate was assigned to focus on three elements:

- The videotape of Ahmad Abu Adass
- The cellular communications that took place in the area of the explosion
- The type and amount of explosives used.

### **Sûreté Générale**

59. On 14 February 2005, Brigadier General Jamil Al-Sayyed was the Head of the Sûreté Générale. He was promoted to the post in December 1998 and stepped down during spring 2005 in the aftermath of the blast that killed Mr. Hariri. According to his statement, he was at his office when he heard the blast, but thought that the noise was a result of Israeli air fighters passing through the sound barrier. Somewhere between 1315 and 1330 hrs, Lieutenant Colonel Ahmed Al-Assir informed him of the blast and that Mr. Hariri's motorcade had been the target. He stayed at his office and no one from the Sûreté Générale was sent to the scene. He called the President, the Minister of the Interior and General Ghazali.

60. Later that afternoon, General Al-Sayyed attended the meeting at the Higher Defence Council. The meeting was focused on the consequences in the near future on the ground. The suggestions were submitted to the Government, which had a meeting later the same evening.

61. On Tuesday morning, 15 February 2005, he got a phone call from a journalist from Al-Jazeera who told him nobody had yet picked-up the Abu Adass videotape. The tape was brought to him 16 February 2005. He made a copy and sent the original to the Investigative Judge Abou Arraj.

### **Crime Scene Investigation**

#### **ISF Report**

62. As with any similar criminal case, prompt examination of the crime scene and its surroundings is of paramount importance for the outcome of the investigation. The officer in charge of the crime scene, General Naji Mulaeb of the ISF, arrived at the scene at 1305 hrs on 14 February 2005. He has issued a report dated 3 March 2005, on the crime scene examination conducted by the Lebanese authorities (General Directorate of Internal Security Forces, Beirut Police Unit, Ref. No.: 95) stating the following:

"On implementation of investigation order issued by the first investigating judge of the military court in Beirut regarding the investigations and anything that can throw light on the enquiry into the explosion which caused the death of former Prime Minister Hariri and others.

Record: Investigation order issued by the first investigating judge of the military court in Beirut No23/2005 dated 14 February 2005.

Order from the General Department of Referrals No 207/1181 dated 15 February 2005.

On 14 February 2005 at about 1250 hours, an explosion took place in Beirut which the operations room reported as being close to the St. George Hotel. All patrols were ordered to go to the scene. I proceeded there and arrived within a few minutes. Cars on both sides of the road in the vicinity were ablaze and there was a lot of smoke. Civil defense, fire brigade and Red Cross vehicles hastened to the area and took action to put out the fire, gather the corpses and take the wounded to hospital. The scene was chaotic, and security and military personnel were mixed with civilians, firemen and first aid personnel and civilians, newspaper journalists and the media were all eager to get to the scene. I ordered all the officers and police officers and patrols to do everything necessary to maintain security corridors and to take the requisite measures to safeguard the scene of the crime and keep away onlookers and made the commander of the second Beirut regional secretariat responsible for implementation.

The preliminary indications are that the explosion took place in the motorcade of Prime Minister Hariri but the outcome is not yet known.

Specialists in gathering evidence and explosives experts began their work.

In addition to political and security officers, there came to the scene a Government commissioner from the Military Court with some support staff; and Rasheed Mezher, the first investigating judge from the Military Court in Beirut, who orally delegated me, in my capacity as officer in charge of the police during the absence from 12 February 2005 of the Police Commander on a mission abroad, or whoever I should see fit, to undertake the investigations and anything that could throw light on that explosion and to duly inform him. The oral authorization would be followed up in writing.

As soon as the General Director of Internal Security arrived at the scene, I informed him of all the above.

In accordance with the above-mentioned oral delegation of authority, I ordered Major Salah Eid to undertake the necessary investigative procedures in his capacity as the commander of the second Beirut regional secretariat, within the remit of which the explosion took place, and to keep me informed.

The work of retrieving the corpses and taking the wounded to hospital continued, as did the work of personnel from the Central Office of Accidents and the explosive experts. A complete sweep was made of the scene and the surroundings. A team of engineers from the Lebanese Army came and took samples from the scene in order to carry out tests thereupon. An army detachment carried out a search of the site and buildings and assisted in imposing a security cordon.

In view of the urgency of the investigation, we sent telegram No. 2065 dated 14 February 2005 to the leadership of the regional police unit and to police unit commanders in which we asked that all the necessary investigations should be carried out within the remit of each unit with respect to the corpses that had been taken to the hospitals in each area, in order to permit their relatives to identify them and duly inform me, thereby enabling me to gain the approval of the relevant authorities for the return to their relatives of those corpses. Depositions were to be taken from the wounded and a copy deposited in the file of the overall investigation, through the Al- Burj squad.

Further to our telegram No. 2077 dated 14 February 2005, sent to unit departments regarding the isolation of the scene of the crime and establishment of a security cordon around it, we ordered the commander of the second Beirut regional secretariat to use whatever personnel were necessary to perform those tasks and to place metal barricades and yellow tape around the scene and, in coordination with the commander of the traffic secretariat, to ensure the flow of traffic.

Major Eid kept me informed of the progress of the investigation and its outcome, and I duly informed the first investigating judge from the Military Court. The corpses were handed over to their relatives in accordance with legal principles.

On the instructions of the first investigating judge of the Military Court, and with the approval of the General Director of Internal Security Forces, the cars from the Hariri motorcade were taken to the Helou barracks, once they had been photographed in situ and a video recording had been made in the presence of the commander of the second Beirut regional secretariat, the commander of the second Beirut traffic squad, the commander of the Al-Burj detachment and a squad of criminal investigators, and using the lights provided by the civil defense, in accordance with report No. 144/302 dated 14 February 2005. They were deposited in the Helou barracks.

In our telegram No. 2122 dated 15 February addressed to the commander of the emergency services, we requested that they should be safeguarded and that no-one should be allowed to touch them.

At 1500 hours on 15 February 2005, Major Omar Makkawi, the commander of the Beirut police unit, reported and assumed his command. He informed me of all the procedures that had been taken and all incidents that had occurred, and we followed up the process of the investigation being undertaken by Major Salah Eid. We then duly informed the first investigating judge of the Military Court of the same.

Pursuant to warrant No. 2F206/dated 17 February 2005, the unit commander transferred to us the written delegation of authority issued by the first investigating judge of the Military Court Ref 23/2005 dated 14 February 2005 concerning the explosion, which was transmitted to us for implementation by the General Directorate as No. 2SH207/1181 dated 15 February 2005.

Similarly, the unit command gave us, pursuant to warrant No. 206/1735 dated 18 February 2005, written authorization from that party Ref. 36/2005 dated 18 February 2005, which included an order to keep the cars from the Hariri motorcade inside the barracks, cover them with tents and place them under guard, which was done.

In accordance with warrant No. 2F206/1736 dated 18 February 2005, The first investigating judge of the Military Court have us written authorization Ref. 36/2005 dated 18 February 2005, which included an order to contact the Governor of Beirut, who should supply us with the names of those recently working at a workshop at the site of the explosion. The aforementioned authority was carried out by means of a document of 14 pages which is attached.

Pursuant to the first delegation of authority referred to above; on the basis of the order to the commander of the second Beirut regional secretariat to carry out the investigation; and as a result of the first report, No. 302/143 dated 14 February 2005 and all the investigations arranged by the units in the police unit and the regional police unit, we hereby submit the following:

Table No. 1 has been prepared concerning the corpses that have been returned to their relatives.

Table No. 2 has been prepared concerning the persons injured by this explosion.

Table No. 3 contains the depositions that were made concerning the explosion.

A table has been prepared showing the measures that were taken: an examination of the scene of the crime; articles impounded; damaged cars; the loss of one person at the site of the explosion and the failure to find him.

All those procedures have been verified in report No. 302/1 dated 14 February 2005”.

### **Swiss Forensic Report**

63. The Lebanese experts involved in the crime scene examination, representing a variety of different agencies, came up with different opinions on the findings and results of the examination. As a result, they were summoned to a meeting at the Military Court

in the presence of the Prosecutor General <sup>(witness statement)</sup>. The meeting led to a request from the Lebanese authorities for foreign assistance in examining the crime scene, which was directed to the Government of Switzerland. A Swiss forensic expert team visited Lebanon in March 2005 and conducted a forensic investigation. The team's final report stated (excerpt):

“Our conclusions about an explosion above or under ground are based upon the following examinations:

- Interpretations based on dispersion of fragments, size and shape of fragments
- Interpretations based on size and shape of crater
- Ballistic interpretations
- Interpretations of damages on buildings (structure, glass)

After interpretation and analysis of the dispersion of fragments, we can't give clear evidence whether there was an explosion above or under ground. Our analysis and research concerning the shape and form of the crater also gives no clear evidence whether there was an explosion above or under ground.

On the other hand, the form and shape of the crater gives some information about the possible amount of the charge (above or under ground):

- As mentioned in our report it is expected that an amount of about 1000 kg above ground will create a crater like the one on the scene

(...)

Concerning the fact that the charge was possibly placed in a car, it must have been of larger size. If such a vehicle has been used we expect some big fragments (e.g. from the frame) of the vehicle close to the center of the explosion.

The grade of damage of the metal fragments which were shown to us by the police (said to be originated of a Mitsubishi Canter) is consistent with fragments we would expect if such a vehicle was located in the center of the explosion.

(...)

After having conducted all the analysis and discussions of the facts we have collected, we came to the conclusion that it was most likely an explosion above ground.

According to this finding we estimate an amount of 1000kg of high explosive.

The unconfirmed and preliminary results of the analysis of a soil sample of the crater showed Trinitrotoluene (TNT) as explosive charge”.

## **Rifi Report**

64. In March 2005, the present Head of the ISF, General Ashraf Rifi, prepared a report on the initial measures undertaken by the competent Lebanese authorities on the scene of the crime, which was submitted to the UN Fact Finding Mission. The report concluded (excerpt):

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### **II. Measures taken:**

The importance of this tragic event that led to the assassination of former Prime Minister Rafik Hariri had an effect on all subsequent measures and actions taken.

#### **A. Rescue and evacuation operations and find of bodies:**

In the immediate aftermath of the explosion, security, military and civil defense organs as well as the Red Cross rushed to the crime scene to perform their duties. In spite of all the measures taken, these were, unfortunately, not up to the level that would save the face of these organs. These measures were flawed. Therefore, the Minister of Interior and Municipalities issued a memorandum 137/(sad)2, dated 25 February 2005, instructing the General Inspectorate of the Internal Security Forces to investigate the deeds and actions. Based on the results, he suggested the dismissal of both the General, Chief of Beirut Police and the General, Chief of the Judicial Police.

**B. Preservation of the crime scene:**

Immediately after the explosion happened, the military investigating judge was put in charge of the investigation. All the security and judicial police personnel were put at his disposal. He gave rogatory commissions and stipulated the kind of measures to be carried out, especially the preservation of the crime scene. However, the measures taken were below the required level and contrary to the obvious fundamental basis upon which crimes as serious as this one or even less serious crimes are investigated, in which case, strict measures ought to be taken in order to prevent any tampering with the crime scene or any clues that could be used as criminal evidence to help in the investigation and uncover the truth. This could have been carried out without neglecting the humanitarian aspect of the tasks to be implemented, i.e. giving priority to finding the victims and the injured, providing the latter with the first aid in order to save them. Serious mistakes were recorded in this regard:

- a) There was a state of chaos in the crime scene not only during the first few hours following the explosion, during which much focus is on extinguishing the fire, saving the injured and looking for the missing, but regrettably and unnecessarily for a much longer time.
- b) There was no coordination between all the security organs present on the crime scene.
- c) Looking for the missing persons was done in an irresponsible, unprofessional and careless way. Some were later found by accident or by their families. The following controversial elements were recorded:
  - The body of Zahi Abu Rujaili, a Lebanese citizen, was found on 15 March 2005. According to the medical examiner, the victim had survived the explosion for approximately 12 hours.
  - The body of one of the victims was found by coincidence 8 days after the explosion.
  - The body of Abdel-Hameed Ghalayeen, a Lebanese citizen, was found 16 days after the explosion by his family and not the judicial or civil defense officers.
  - The fate of Farhan Ahmad Al-Issa is still unknown, he is still missing. It is feared that finding his body would constitute yet another scandal.
- d) A few hours after the explosion took place, around 2300 hrs, major evidence was removed from the crime scene. The convoy cars of the late former Prime Minister were transferred to Helou Barracks under the pretext of preserving them although what was left of the cars did not justify their preservation except for their value as criminal evidence because they were the target of the explosion. This was not the only instance bearing proof of the tampering with the crime scene. A BMW car that was not part of the convoy was also removed whereas focus should have been on not removing any cars and maintaining them the way they rested after the explosion in order to determine how the crime was committed.
- e) A bulldozer was introduced into the crime scene on the day of the explosion, 14 February 2005, in the evening for no justifiable reason. As soon as the Minister of Interior and Municipalities got knowledge of it, he gave orders to retrieve it and preserve the crime scene as it was.

**C. The conduct of the investigation, its conditions and the determination of how the crime was committed:**

- a) It is common knowledge that major mistakes were made in the course of conducting the investigation, among which the leaking of information that created confusion. This in turn compromised the trustworthiness of the local investigation.

(....)

### III. Responsibilities

- a) Responsibility for a tragic crime such as the one we are dealing with cannot be limited to one aspect. As mentioned above, it encompasses the political, judicial and security aspects.  
(....)

#### **Decision to remove motorcade vehicles**

65. The decision to fill the crater at the crime scene, to remove the motorcade vehicles and to re-open the street on the day after the blast, is confusing, assuming that there was a collective will to perform a professional crime scene examination in order to track down the perpetrators and bring them to justice. The confusion, reflected in the variety of statements from the officials most closely involved, speaks for itself.

#### Investigative Judge Mezher

66. At 2230 hrs on 14 February, Judge Mezher was at his home, when he got a phone call from General Naji Mulaeb, who informed the Judge that the representatives from the various agencies at the crime scene had started collecting pieces of metal from the motorcade vehicles in order to perform their own further forensic examinations. There was nothing General Mulaeb could do to stop them. He suggested that the motorcade vehicles be removed to a safe place and proposed the Helou barracks in Beirut. Judge Mezher agreed to the proposal under the following conditions. The vehicles should be filmed on the spot, they should be marked and numbered: they should also be filmed during the transportation and again upon arrival at the Helou barracks, where they should be covered and guarded around the clock in order to avoid any tampering with evidence. Judge Mezher had no information about a decision to fill the crater and reopen the street (witness statement). The vehicles were moved from the crime scene during the night of 14 February.

#### General Jamil Al-Sayyed

67. On the morning of 15 February 2005, General Al-Sayyed read in the newspaper about the removal of the motorcade vehicles. At 0800 hrs, he called General Ali Al-Hajj, the Head of the ISF and asked what was going on. General Al-Hajj replied that two teams were working on clearing the road which would be reopened at 1000 hrs. In response to a direct question, General Al-Hajj stated that the orders came from Mustapha Hamdan, the Commander of the Presidential Guard (witness statement).

#### General Ali Al-Hajj

68. On 14 February 2005 at 2230 hrs, Mr. Saddik received a telephone call at his office, (where he was with General Hisham Aouar) from the Director General of the Public Works Ministry, Mr. Fadi Nammar. Mr. Nammar told him that a decision had been taken to re-open the road the next day and that his staff were ready to start working at sunrise the next morning. The call was on the landline and was overheard by General Aouar. He claimed to be surprised about the telephone call because Mr. Nammar had no

jurisdiction in the matter. It was publicly recognized that Fadi Nammar was very close to the Republican Palace, which meant that he was taking his orders from there. Mr. Nammar alleged that he had cleared the matter with the Investigative Judge. He called the acting Chief of Beirut Police, General Naji Mulaeb, and informed him about the call from Mr. Nammar and asked him to check with Judge Mezher whether he was aware of this decision. General Mulaeb called Judge Mezher, who was aware of the decision to re-open the road and had no objection. General Mulaeb then asked what should be done with the vehicles. Judge Mezher replied that they should be brought to a secure place and proposed the Helou Barracks<sup>(witness statement)</sup>.

69. The next morning, 15 February 2005, Mr. Nammar met with the Governor of Beirut, Mr. Yacoub Sarraf, in order to arrange for the re-opening of the Minae Al-Hosn Street. Sarraf is very close to the Republican Palace and he was also aware of the decision<sup>(witness statement)</sup>.

#### General Hisham Aouar

70. With regard to the removal of the motorcade, General Aouar indicated that he did not know who gave the order. He was asked to assist in the filming of the removal of the motorcade on 14 February 2005 during the meeting with the Investigative Judge, but nothing else was mentioned about the removal of the motorcade vehicles from the crime scene. On that same evening, between 2230 and 2300 hrs, he was at the office of the ISF General Director, General Ali Al-Hajj, and he told him that the cars were going to be removed. He also told him that the ISF had to provide assistance by marking the locations of the vehicles and their filming<sup>(witness statement)</sup>.

#### Director General Fadi Nammar

71. Mr. Nammar did not remember whether General Al-Hajj telephoned him on 14 February 2005, but he remembered his calling General Al-Hajj the next day, as he always did in similar situations. At the time of the telephone call, he was at the office of the Governor of Beirut. He told General Al-Hajj that they were prepared, if needed, to offer help. General Al-Hajj passed him on to a General working for ISF, who told him that there was a survey going on at the crime scene. The General stated he would come back to Mr. Nammar in due course. Mr. Nammar did not recall the name of the General, but he was with Al-Hajj. He had no authority to decide to open roads in Beirut and he did not give any orders to remove the motorcade vehicles. He also denied any contacts to the Republican Palace<sup>(witness statement)</sup>.

72. Subsequently, it was confirmed (by telephone lists) that General Ali Al-Hajj made the telephone call from his landline to Mr. Nammar's mobile phone on the evening of 14 February 2005. It was also confirmed that Mr. Nammar made the telephone call to General Al-Hajj the following day<sup>(witness statement)</sup>.

#### The Governor of Beirut, Mr. Yacoob Sarraf

73. According to his statement he did not give any instructions. The Army and the Police took over. He had telephone contact with Mr. Fadi Nammar on 14 February 2005.

Acting Commander of Beirut Police, General Naji Mulaeb

74. Between 2030 and 2200 hrs on 14 February 2005, General Mulaeb received a telephone call at his office from General Ali Al-Hajj who ordered General Mulaeb to transfer the convoy vehicles from the crime scene and secure them in a safe place, on the understanding that within two days the road would be re-opened. If experts wanted to come and inspect the vehicles, they would be available. General Mulaeb was surprised by this order and did not accept it. He told General Al-Hajj that he had nothing to do with the crime scene, since the site was under the authority of Judge Mezher. General Al-Hajj told General Mulaeb to contact the Judge, which he did. The Judge was also surprised and asked the reason for the hurry. General Mulaeb told him that he received his orders from General Al-Hajj and that he was surprised as well. The Judge told him to give him some time and that he would call back. After a while, between 10 and 30 minutes, the Judge called back and said that the cars could be transferred <sup>(witness statement)</sup>.

General Mustapha Hamdan

75. After the blast on 14 February 2005, General Hamdan took all necessary measures to protect the President and the Presidential areas. He did not recall any details, but he did not go to the scene of the blast. He did not issue any orders or directives regarding the activities at the crime scene, since it did not fall within his responsibilities. Thus, he had nothing to do with any orders to clean the street, to fill the crater or to remove the motorcade vehicles <sup>(witness statement)</sup>.

Head of Internal Security Forces, General Ashraf Rifi

76. In a meeting with UNIIIC on 1 June 2005, General Rifi stated that the person who gave the order to get a bulldozer or bulldozers to the crime scene to fill the hole caused by the explosion etc. was General Mustapha Hamdan, who at the time of the incident was the Commander of President Lahoud's security detail and therefore by Lebanese law had nothing to do with issues related to crime scene investigation <sup>(witness statement)</sup>.

**Lebanese Investigation: Ahmad Abu Adass**

77. At approximately 1411 hrs on 14 February 2005, barely an hour after the explosion, Leila Bassam of Reuters received an anonymous telephone call from a man with an accent that was not Lebanese but which she could not identify. According to Ms. Bassam, as soon as she answered the call, the man directed her to "[w]rite this down," told her to be quiet, and then read the following statement in classical Arabic:

"We, *al nasra wal-jihad fee bilad Al-Sham*, declare that we have meted out due punishment to the infidel Rafik Hariri so that he may be an example to others."

The caller concluded with an Islamic religious saying and then hung up.

78. Mr. Ghassan Ben Jeddou, the Beirut Bureau chief of Al-Jazeera, recalls receiving four telephone calls that day related to the same claim of responsibility. In the first telephone call, a man whom Mr. Ben Jeddou described as speaking poor Arabic in an African, Afghan or Pakistani accent, claimed that *Al-Nasra wal Jihad* was responsible for Mr. Hariri's execution by a suicide bomb. Shortly thereafter, Al-Jazeera informed the public about this claim of responsibility.<sup>1</sup> Al-Jazeera next received a call from another anonymous person claiming to be from the same group, this time a fluent Arabic speaker, who explained where Ben Jeddou and his colleagues could locate a videocassette containing further information about the assassination -- namely, in a tree near the ESCWA building in downtown Beirut -- and directing them to fetch the tape within 15 minutes. Mr. Ben Jeddou sent a colleague to locate the videocassette. Eventually, a white envelope containing a type-written detailed statement and a videocassette was found. After more calls from the same group asking why the tape had not yet been aired, Al-Jazeera aired the footage later that afternoon.

79. The letter accompanying the tape, purporting to be from the Nasra and Jihad Group of Greater Syria, states in part:

*"Praise be to God for the banner of Nasra and Jihad is victorious in Greater Syria, and with God's blessings the agent of the infidels in Mecca and Medina, Rafik Hariri, has been meted out his due punishment through a suicide operation executed by the Mujahid Ahmad Abu Adass bearing the banner of Nasra and Jihad in Greater Syria on Monday, 14 February 2005, the 5<sup>th</sup> of Muhurram 1426 according to the Islamic Calendar, in Beirut. ... Attached is film recording of the martyr Ahmad Abu Adass, executor of the operation."*

In the tape, an individual identifying himself as Mr. Abu Adass, uses similar phraseology.

80. Soon after the airing of the tape, the Lebanese authorities had acquired extensive information about Mr. Abu Adass's background and began questioning his family and associates. Much of this information apparently came from Sheikh Ahmed Abdel-Al, of Al-Ahbash, an Islamic group active in the area of the Palestinian camps where Mr. Abu Adass had reportedly lived. Sheikh Abdel-Al stated to UNIIIC that he received a telephone call from the presidential palace shortly after the airing of the Abu Adass video, enquiring whether Abdel-Al had any information about Mr. Abu Adass. According to Mr. Abdel-Al, he obtained information about Mr. Abu Adass's background, including his address, the fact that he often went to Ein al Helwa, that he was a Wahabi, that he was well-educated, had probably studied computer science, and that he visited Abu Obeida (deputy to the leader of Jund al Sham). Sheikh Abdel-Al also obtained the names of Mr. Abu Adass' family and friends: he sent this information by facsimile to

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<sup>1</sup> Mr. Benjeddou recalls that Al-Jazeera received four telephone calls that afternoon, the first around 13:40 and the last around 1600 hrs. However, telephone records show only three telephone calls to Al-Jazeera that afternoon, at 1419 hrs, 1527 hrs, and 1704 hrs.

President Lahoud, Ali Hajj, Albert Karam, Jamea Jamea, and Maher al Toufeily. Sheikhh Abdel-Al reportedly also met with Syrian intelligence official, Jamea Jamea, on the evening of 14 February 2005 and gave him the information about Mr. Abu Adass, which Jamea Jamea subsequently relayed to the ISF.

81. The ISF visited Abu Abass' house, accompanied by a member of Al-Ahbash, and seized a computer, as well as a number of compact disks which were primarily of a fundamentalist Islamic nature. Although the report on the search noted that most of the documents stored on the computer were downloaded from the internet, there was no indication that Mr. Abu Adass' home had internet access. Many of Mr. Abu Adass' friends and relatives were interviewed extensively by the authorities (including by the ISF and military intelligence) in the days immediately following the explosion. Mr. Abu Adass himself, however, could not be located. On the day of the explosion 10 people were questioned and over the course of next two months approximately 40 people were interviewed. The Lebanese investigation further revealed that Mr. Abu Adass had been employed at a computer shop in the summer of 2004, which was owned in part by Sheikh Ahmed Al-Sani, who was a member of the Ahmed Miqati and Ismail Al-Khatib network.

82. In a report dated 17 February 2005, from General Sayyed to Judge Mezher, General Sayyed concluded that the videotape was authentic and "Ahmad Abu Addas, who appears on the tape, was . . . clearly a definite participant in the assassination." The only basis provided for this conclusion was the statement that "[t]he way in which he delivers the statement and shows himself without any covering over his face is the manner adopted by suicide bombers in similar cases. The fact that he did not conceal his face while making the statement indicates that he must have been personally responsible for setting off the explosion." (Information About Facts Relating to the Broadcast on *Al-Jazeera* of a Videotape Claiming Responsibility, No. 606/A'A, 17 February 2005)

### **Australian Investigation**

83. On 15 February 2005, a request was forwarded to the Australian Federal Police from the Prosecutor General requesting that six individuals be arrested as suspects for participating in the Hariri assassination. The responsible ISF official at Beirut International Airport, informed ISF General Al-Hajj about these six individuals. General Al-Hajj transmitted this information directly to Prosecutor General, Judge Rabia Kaddoura, who contacted the Australian authorities. The Australian investigation absolved these six suspects of any involvement in this crime, a position with which the Lebanese authorities in charge of the investigation agreed.

84. The records indicate that the Lebanese authorities based their suspicion on the following factors:

- a) The six persons of interest departed from Beirut International Airport one and a half hours after the bombing occurred;
- b) The six persons had no luggage; and

- c) One of the six persons bore a resemblance to Mr. Abu Adass, who was depicted in a video of an extremist group that had claimed responsibility for the bombing.

85. The Australian authorities executed an extensive investigation to assist the Lebanese authorities. The investigation included raising airport alerts, interviews of the six individuals and other members of the group, explosive residual swabbing (including the individuals, their airplane seating, and their luggage), and examining the aircraft for possible explosives. Although it was reported that the six persons identified as “suspects” were without luggage, they in fact were carrying luggage. Three of the six suspects subject to a forensic examination.

86. The findings of the Australian investigation revealed: (1) The group was traveling to Jeddah as part of a religious pilgrimage; (2) No common organic or inorganic explosive or post-blast residue was detected in any of the samples taken; and (3) No person interviewed by the Australian authorities with respect to this investigation had any involvement nor any knowledge about any involvement in the Hariri assassination.

## **V. THE COMMISSION’S INVESTIGATION**

### **Overview**

87. UNIIIC was declared operational by the Secretary General on 16 June 2005. From 16 June to 6 October 2005, 244 witness statements, 293 investigator’s notes and 22 suspect statements have been issued. A number of searches have been conducted and 453 crime scene exhibits have been seized. A total of 16,711 pages of documents have been produced. Thirty investigators from 17 different nations have been involved in the UNIIIC investigative measures, as well as external experts.

88. At the outset, the time factor affecting the Commission has to be emphasized. UNIIIC was declared operational four months after the actual crime, which means that the perpetrators and their accomplices have had plenty of time to destroy evidence and/or to collude with each other, the ability to recall of potential witnesses has been diminished, and previous omissions and inadvertent or deliberate loss and destruction of evidence could not be undone.

89. The first month after the Secretary-General declared UNIIIC operational was focused on updating the investigators on the current status of the investigation, including an assessment of measures undertaken by the Lebanese authorities. Much time was spent on analysis of material handed over to the Commission by the Prosecutor General, followed by interviews for clarification with key witnesses, based on written materials on the following topics:

- Reconstruction of actions and whereabouts of Mr. Hariri prior to the blast.
- Findings and results from activities by the Lebanese authorities undertaken at the crime scene and adjacent areas.