

PUBLIC

R141409

STL-11-01/PT/PTJ  
F0879/20130502/R141409-R141418/EN/nc

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

**THE PRE-TRIAL JUDGE**

Case No.: **STL-11-01/PT/PTJ**

The Pre-Trial Judge: **Judge Daniel Fransen**

The Registrar: **Mr. Daryl Mundis, Acting Registrar**

Date: **2 May 2013**

Original language: **English**

Classification: **Public with confidential and *ex parte* annex**

**THE PROSECUTOR**  
**v.**  
**SALIM JAMIL AYYASH**  
**MUSTAFA AMINE BADREDDINE**  
**HUSSEIN HASSAN ONEISSI**  
**ASSAD HASSAN SABRA**

**FOURTH DECISION ON VICTIMS' PARTICIPATION IN THE PROCEEDINGS**

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14. The causal link requirement stipulated by the third element in Rule 2 with reference to an “attack within the Tribunal’s jurisdiction” adopts the language of Rule 1 which determines the jurisdiction of the Tribunal.<sup>12</sup> This raises a potential ambiguity which merits further clarification. An “attack”, even one limited to being “within the Tribunal’s jurisdiction”, lacks sufficient precision. The term “attack” is nowhere defined in the Rules or the Statute. Conceptually, the term is factual in nature. As the VPU observes, the term “attack” by its very vagueness is capable of being interpreted either narrowly (e.g. limited to the detonation of 14 February 2005 resulting in the killing of Rafiq Hariri and others) or broadly (e.g. encompassing all manner of preparatory or ancillary acts prior to the detonation).<sup>13</sup>

15. Focussing on whether a broad or narrow reading should be taken of any particular “attack” mischaracterises the issue. The Pre-Trial Judge considers that the causal link required between the harm suffered and an “attack within the Tribunal’s jurisdiction” must be read as requiring a nexus between the harm alleged and a *crime* specifically charged in the Indictment. This reading confers a legal character to the parameters of the causation elements, thereby providing greater certainty and rigour to the process of VPP status assessments. The reasons supporting this interpretation are as follows.

16. First, Rules 2 and 86(B)(i) must be read consonantly with the spirit of the Statute;<sup>14</sup> put another way, they must be read in good faith, in the context, and in light of the object and purpose of the Statute as a whole.<sup>15</sup> Such a reading dictates that harm claimed by an applicant seeking VPP status must be causally linked to a crime charged in the Indictment against the accused. In this regard, the Pre-Trial Judge notes that Article 25 of the Statute, like Rule 2, establishes a causation test in permitting the Tribunal to “identify victims who have suffered harm as a result of the commission of *crimes* by an accused convicted by the Tribunal”.<sup>16</sup> It is also the case that Article 25 is contained in a section of the Statute governing compensation, which is generally considered at the conclusion of proceedings in the event of a finding of guilt of an accused. If an overly liberal view of “attack” in Rule 2 was to be adopted for the purposes of Rule 86(B)(i), this could potentially lead to the incongruous, indeed illogical, outcome that a wider class of victims would be admitted as VPPs only to be denied

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<sup>12</sup> STL Statute, Art. 1 provides more precisely: “The Special Tribunal shall have jurisdiction over persons responsible for the attack of 14 February 2005 resulting in the death of former Lebanese Prime Minister Rafiq Hariri and in the death and injury of other persons [..]”.

<sup>13</sup> Further Transmission of Applications, Annex 1, paras 15 and 23.

<sup>14</sup> Rule 3, STL RPE.

<sup>15</sup> Vienna Convention, Art. 31(1).

<sup>16</sup> Art. 25(1), STLSt, emphasis added.