Mandate and Jurisdiction

The mandate of the Special Tribunal for Lebanon is to prosecute persons responsible for the attack of 14 February 2005 resulting in the death of former Prime Minister Rafiq Hariri and in the death or injury of other persons. The Tribunal’s jurisdiction could be extended beyond the 14 February 2005 bombing if the Tribunal finds that other attacks that occurred in Lebanon between 1 October 2004 and 12 December 2005 are connected in accordance with the principles of criminal justice and are of a nature and gravity similar to the attack of 14 February 2005.

This connection includes but is not limited to a combination of the following elements: criminal intent (motive), the purpose behind the attacks, the nature of the victims targeted, the pattern of the attacks (modus operandi), and the perpetrators. Crimes that occurred after 12 December 2005 can be eligible to be included in the Special Tribunal’s jurisdiction under the same criteria if it is so decided by the Government of the Republic of Lebanon and the United Nations and with the consent of the Security Council.
Main Features

Applicable Law:
The applicable law for the Special Tribunal is national in character, as the Statute stipulates that the Special Tribunal shall apply provisions of the Lebanese Criminal Code relating to the prosecution and punishment of acts of terrorism and crimes and offences against life and personal integrity, among others.

Exclusion of Death Penalty and Forced Labour:
Lebanese criminal law will be applied by the Special Tribunal subject to the exclusion of penalties such as death penalty and forced labour, which are otherwise applicable under the Lebanese law. The Special Tribunal has the power to impose penalties leading up to and including life imprisonment. Sentences will be served in a State designated by the President of the Special Tribunal from a list of States that would have expressed their willingness to accept persons convicted by the Special Tribunal.

International Character:
The international character of the Special Tribunal for Lebanon was explicitly stipulated in the request submitted by the Government of Lebanon to the Secretary-General of the United Nations to establish a Tribunal to try all those responsible for the attack of 14 February 2005. It was also explicitly set out in the mandate provided to the Secretary-General by the Security Council in resolution 1664 (2006) to negotiate an agreement with the Lebanese Government aimed at establishing a tribunal of an international character. The UN and the Lebanese Government agreed that the Special Tribunal would have a mixed composition with the participation of Lebanese and international judges, as well as an international Prosecutor. The Special Tribunal’s standards of justice, including principles of due process of law, will be based on the highest international standards of criminal justice as applied in other international tribunals.

Independence-Fairness-Efficiency:
To ensure the independence of the Special Tribunal, its Statute includes various safeguards. It provides for a transparent and thorough process for the appointment of the Special Tribunal’s officials, in particular the judges and the Prosecutor, and it stipulates that the Chambers shall be composed of Lebanese judges as well as international judges. The establishment of the Special Tribunal with a majority of international judges, an international Prosecutor, and a Registrar is aimed at ensuring the independence, objectivity and impartially of the trial process. In addition, and in fairness to the accused, the Statute includes provisions on protection of the rights of the accused, including the establishment of a Defence Office that carries out its functions independently. The Statute also includes provisions on the rights of the victims to present their views and concerns as deemed appropriate by the Tribunal. Furthermore, and in order to ensure the efficiency of the Special Tribunal, the Statute includes provisions on enhanced powers of the Tribunal to take measures to ensure expeditious hearing and prevent any action that may cause unreasonable delay. For considerations of justice and fairness, as well as security and administrative efficiency, the seat of the Special Tribunal will be located outside Lebanon, in the urban area of The Hague (Netherlands).

Combined Funding Mechanism:
Fifty-one per cent of the costs of the Special Tribunal are borne by voluntary contributions from States, while the Government of the Lebanese Republic finances forty-nine per cent of the costs.

Commencement of Operation:
The Tribunal began functioning on 1 March 2009. Contributions are in hand to finance the establishment of the Tribunal for the first 12 months of its operations.
The Chambers of the Special Tribunal for Lebanon are composed of a Pre-Trial Chamber, a Trial Chamber, and an Appeals Chamber.

The Chambers:
The Chambers of the Special Tribunal for Lebanon are composed of one international Pre-Trial Judge, a Trial Chamber (three judges: one Lebanese and two international), an Appeals Chamber (five judges: two Lebanese and three international), and two alternate judges (one Lebanese and one international).

A single international judge serves as a Pre-Trial Judge. The Pre-Trial Judge reviews and confirms indictments and may also issue arrest warrants, transfer requests, and any other orders required for the conduct of the investigation and for the preparation of a fair and expeditious trial.

All judges must be persons of high moral character, impartiality and integrity, with extensive judicial experience. The Secretary-General appoints the judges in consultation with the Lebanese Government and upon the recommendation of a selection panel, made up of two judges currently sitting on or retired from an international tribunal, and a representative of the Secretary-General.

The Lebanese Judges (four) are appointed by the Secretary-General, from a list of 12 nominees presented by the Government of the Lebanese Republic upon the proposal of the Lebanese Supreme Council of the Judiciary. The International Judges (seven) are appointed by the Secretary-General, from nominations received from Member States, or competent persons. The Judges serve for a period of three years and are eligible for reappointment.
The role of the Prosecutor is twofold: to investigate crimes falling within the jurisdiction of the Tribunal and to present cases at trial and on appeal, if necessary.

The Office of the Prosecutor (OTP) is, along with the Chambers, the Registry, and the Defence Office, one of the four organs of the Special Tribunal for Lebanon. It is led by the Prosecutor who was appointed by the Secretary-General of the United Nations, after consultation with the Government of Lebanon and upon the recommendation of a selection panel, for a renewable three-year term.

The Prosecutor is assisted in the discharge of his functions by a Lebanese Deputy Prosecutor, who is appointed by the Government of the Republic of Lebanon in consultation with the Secretary-General and the Prosecutor.

The OTP’s mandate is to investigate and prosecute persons responsible for the attack of 14 February 2005 against Rafiq Hariri and others and other attacks having occurred in Lebanon between 1 October and 12 December 2005, or any later date, if those attacks are connected and similar in nature and gravity to the attack of 14 February 2005 and subject to a decision by Lebanon and the United Nations subject to the approval of the Security Council.

The Prosecutor carries out his functions independently and does not seek or receive instructions from any Government or from any other source.

Decisions to investigate, to prosecute and to bring an appeal are principled decisions that are predicated on sound legal criteria. These decisions are made based on the evidence available and exclude political or any other external considerations. Furthermore, no one may order the Prosecutor to file an indictment, to refrain from doing so or to file an appeal. In that respect, the Prosecutor is an independent officer: He is not influenced by any ulterior motive, predilection or prejudice and must be regarded as an independent officer carrying out his duties in a manner much similar to those of a judge.

Mandate
The role of the Prosecutor is two-fold: to investigate crimes falling within the jurisdiction of the Special Tribunal and to present cases at trial and on appeal if necessary.

Investigation
The Prosecutor will continue the investigation carried out by the International Independent Investigation Commission. In conducting the investigation, the Prosecutor, will obtain statements from witnesses, collect evidence and conduct on-site investigations. In carrying out these tasks, the Prosecutor shall, as appropriate, work in cooperation with the relevant Lebanese authorities.

1 Article 2(1) of the Annex to Resolution 1757 (2007) - Article 7 of the Statute of the Special Tribunal of Lebanon
2 Article 3 of the Annex to Resolution 1757 (2007) - Article 11(3) of the Statute of the Special Tribunal for Lebanon
3 Article 3(3) of the Annex to Resolution 1757 (2007)
4 Article 1 of the Statute.
5 Article 11(2) of the Statute
6 Article 11(5) of the Statute and Article 15 of Annex to Resolution 1757(2007)
While the Prosecutor acts independently in the conduct of his investigation, he must obtain the authorisation of the Pre-Trial Judge of the Tribunal to undertake compulsory investigative measures.\(^7\)

Once he reaches the conclusion that there is sufficient evidence of the commission of a crime by an individual to justify the filing of an indictment and that it is in the public interest to do so, he will present the indictment setting out the charges to the Pre-trial judge for confirmation. If the judge is satisfied that the evidence is at first glance\(^8\) sufficient to support the charges, he will confirm the indictment. The Prosecutor stated before the Security Council that he does not intend to start issuing indictments upon assumption of his function as Prosecutor and that he would not provide any timeframe for submission of indictments.

**Prosecution**

The other main task of the Prosecutor is to present cases in court. Once the indictment is confirmed, the accused will be notified of the charges. The Prosecutor will disclose all relevant evidence to the accused and both the prosecution and the accused will prepare for trial, which will be heard by the Trial Chamber, in accordance with the provisions of Article 20 of the Statute. As a general principle, the trial will be public but exceptionally, it may be held in camera, should the Trial Chamber so determine pursuant to the Rules of Procedure and Evidence.\(^9\) As well, under certain circumstances, the trial may be heard in the absence of the accused.\(^10\)

In addition to these functions, the Prosecutor will contribute to the management and administration of the Special Tribunal in a manner determined by the Rules of Procedure and Evidence.

**ORGANIZATIONAL STRUCTURE**

The OTP is headed by the Prosecutor. The first Prosecutor appointed to the Tribunal is Mr. Daniel A. Bellemare from Canada. He was appointed by the Secretary-General of the United Nations on 14 November 2007.

Article 11 (4) of the STL Statute states that the Prosecutor shall be assisted by a Lebanese Deputy Prosecutor, and by such other Lebanese and international staff as may be required to perform his functions effectively and efficiently. In the OTP, staff are assigned to the Prosecutor’s Immediate Office; the Legal Advisory Section; the Investigations Division, in The Hague and in the Office of the Special Tribunal in Beirut\(^11\); and the Prosecution Division.

The OTP employs a wide range of experts (police officers, forensic experts, analysts, lawyers, etc.), drawn from several countries\(^12\) recruited through a transparent competitive system on the basis of their qualifications in the required fields.

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\(^7\) Article 18(2) of the Statute.

\(^8\) Article 18(1) of the Statute.

\(^9\) Article 20(4) of the Statute.

\(^10\) Article(22) of the Statute

\(^11\) Article 8(3) of Annex to Resolution 1757(2007)

\(^12\) Article 3(5) of Annex to Resolution 1757(2007)
The Defence Office is one of the four organs of the Special Tribunal for Lebanon. It is independent from the other organs of the tribunal in the exercise of its duties.

Mandate of the Defence Office
The work of the Defence Office is governed primarily by the Statute of the Special Tribunal. Article 13 of the Statute provides that “the Defence Office, which may also include one or more public defenders, shall protect the rights of the defence, provide support and assistance to defence counsel and to the persons entitled to legal assistance, including, where appropriate, legal research, collection of evidence and advice, and appearing before the Pre-Trial Judge or a Chamber in respect of specific issues.”

Head of the Defence Office
The Head of the Defence Office is an experienced defence counsel in criminal proceedings appointed by the Secretary General of the United Nations, in consultation with the President of the Special Tribunal, for a period of three years. Once the President has been elected, the process of the appointment of the Head of the Defence Office will be finalized.

Once appointed, the Head of the Defence will be responsible for:
- Maintaining a list of counsel who are eligible to be assigned to suspects or accused who do not have the financial means to pay for counsel themselves.
- Appointing those defence counsel that suspects and accused have retained themselves.
- Assigning defence counsel to those suspects and accused who lack the means to pay for counsel themselves.
- Providing assistance and advice to defence counsel, including legal advice.
- Appearing before the Judges with regard to the rights of suspects and accused and any concerns in this regard.

The Rules of Procedure and Evidence will further detail the functions and mandate of the Defence Office.

Principal duty of the Defence Office
The principal duty of the Defence Office is to promote the rights of suspects, the accused and their defence counsel. The Statute endows suspects and accused before the Special Tribunal with a number of essential rights. These fundamental principles are also enshrined in the International Covenant on Civil and Political Rights. The Defence Office undertakes to promote these rights so as to ensure the highest standard of fairness in the proceedings before the Special Tribunal.

Criteria for Defence Counsel
The specific criteria will be set out in the Rules of Procedure and Evidence, to be adopted by the Special Tribunal’s judges. However, it is expected that the criteria will be similar to those in place before other international courts and tribunals.

Criteria Privately Retained Counsel
Counsel who are privately retained by their client have a right of audience before the Special Tribunal if they are admitted to practice law in a recognized jurisdiction, or, if they only act as co-counsel, are a professor of law. Furthermore, counsel should not have been found guilty in disciplinary proceedings or criminal proceedings. Counsel should not have provided false information regarding their qualifications and should not have engaged in dishonest or discreditable conduct or any actions that bring the Special Tribunal into disrepute.
Criteria Counsel assigned through legal aid
In addition to the criteria mentioned above for privately retained counsel, persons who wish to represent clients through the legal aid regime are required to meet additional criteria. Counsel who meet these criteria will be included in the List of Counsel.

How are defence counsel appointed?
Suspects and accused who are paying for their own defence are entitled to choose their own counsel. Such privately retained counsel will be formally appointed to represent a client by the Head of the Defence Office. The Head of the Defence Office will only verify that the client has given a “power of attorney” to the counsel, and whether the counsel meets the criteria to practice before the Special Tribunal (see above).

A suspect or accused, however, may ask the Special Tribunal for legal aid, or legal representation at no cost to the suspect or accused. When such a request is granted, he or she may then select a counsel from the List of Counsel. In such a case, the Special Tribunal will pay for the cost of the counsel. A request for legal aid is reviewed in order to establish that a suspect or accused does not have the financial means to pay for counsel.

When an accused first appears before the Special Tribunal, he or she will be assigned a Duty Counsel for the initial appearance, unless the accused indicates his willingness to be self-represented. This is a temporary assignment to ensure that, from the moment the accused appears before the Special Tribunal, his or her right to counsel is guaranteed.

The counsel who is appointed or assigned by the Head of the Defence Office shall be responsible for all aspects of the case and, depending on the case and type of assignment, is able to select a Defence Team to support him or her.

What is a Defence Team?
The Defence Team is the team of persons that works on the representation of a suspect or accused. A Defence Team varies in size depending on the nature of the case and what stage of the procedure it is. The Lead Counsel is responsible for the selection of any team members and may also be held responsible for their actions. Only Lead and Co Counsel are allowed to make submissions on behalf of the accused in court.

What is a trial in absentia?
A novelty of the Special Tribunal is the fact that, under specific circumstances listed in Article 22 of the Statute, it is possible to hold in absentia proceedings. In other words, a case could be heard without the presence of the accused at trial. There is, however, a requirement that an accused is represented by counsel. Where an accused does not choose his counsel, the Head of the Defence Office shall appoint a counsel to safeguard the rights of the accused.

Defence counsel facilities
The Statute entitles counsel to adequate time and facilities for the representation of the suspect or accused. Facilities are made available to counsel within the premises of the Special Tribunal, including private offices at their disposal where they are able to store files and have access to computers, library services, telephones and other necessary office equipment. Where other services are required, the Defence Office will provide them where possible.

For more information contact:
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The Registry is one of the four organs of the Special Tribunal for Lebanon and it is responsible for the non-judicial aspects of the administration and the servicing of the Special Tribunal. It is headed by the Registrar who is primarily the Senior Administrator, but performs the functions of coordinator, mediator, facilitator and communicator across the Special Tribunal.

The Registry is at the centre of a complex set of responsibilities in running the Special Tribunal and the Registry should be seen as the “engine room” of any criminal justice institution. The nature of the Registry’s responsibilities is almost entirely administrative and involves a number of specific functions, especially in the areas of human resources, finance, languages, court management, procurement, security, press and public affairs, outreach and detention.

The administrative management activities of the Registry provide support to the work of the Chambers, the Prosecution and the Defence for the purpose of conducting trials. In particular, the offices of the Registry are also responsible for bringing witnesses to testify in court, protecting them when necessary and providing them with expert psychological support.

Elsewhere, an important aspect of the Registry’s support to the pre-trial, trial and appeal process is an effective interpretation and translation service. All the major documents of the Special Tribunal for Lebanon are translated into the official languages of the Tribunal which are English, Arabic and French.

In this support role it is important to note that the Registry must remain a neutral organ at all times in terms of balancing that support to all of the Special Tribunal’s other organs equally. In doing so, the Registry has to consciously maintain the quality, efficiency, transparency and timeliness of its activities bearing in mind that its work has a direct impact on the achievement of the wider goals of the Special Tribunal.

The Registry has also an important external diplomatic function. It is responsible for establishing and maintaining contacts between the other International Courts and Tribunals and the international community at large, including non-governmental organizations. It must also ensure the provision of regular information to the donor states as well as regular interaction with member states in general with regards to negotiations in respect of cooperation agreements including enforcement of sentences and relocation of witnesses. In particular, the Registry is responsible for ensuring an effective and cooperative working relationship with the Host Country, the Netherlands.

The Registrar
The Registry of the Special Tribunal for Lebanon is headed by a Registrar, appointed by the UN Secretary-General. Mr. Robin Vincent from the United Kingdom was appointed on 10 March 2008 as the Registrar of the Special Tribunal for Lebanon. The Special Tribunal for Lebanon commences its functions officially with effect from 1 March 2009.
On 14 November 2007, the Secretary-General of the United Nations appointed Daniel A. Bellemare, MSM, O.C. as the Commissioner of the United Nations International Independent Investigation Commission into the bombing that caused the death of several persons, including the former Prime Minister of Lebanon, Rafik Hariri. At the same time, the Secretary-General designated Mr. Bellemare as the Prosecutor of the Special Tribunal for Lebanon.

He holds a Law degree from the University of Ottawa and a Master Degree in Law from the University of Montreal. He was called to the Quebec Bar in 1976. Between 1976 and 1983, he worked as a federal prosecutor in Montreal for the Department of Justice of Canada. From 1983 to 1988, he was the deputy Director and then the Director of the Criminal Law Amendments Section of the Department. In 1988, he was appointed Director of the Legal Services Unit of the Department of the Solicitor General where he served until 1993. At that time, he was appointed Assistant Deputy Attorney General (criminal law), a position he held until 2006, making him the longest standing holder of that position in the history of the Department of Justice. He was responsible for all of criminal prosecutions initiated in the name of the Attorney General of Canada.

When he retired in 2007, he was Special Advisor to the Deputy Minister of Justice and Deputy Attorney General of Canada.

A founding member of International Association of Prosecutors in 1995, Mr. Bellemare was a member of the Executive Committee of the association since its creation until his retirement in December 2006. He has since been elected to the Senate of the Association.

Throughout his career, Mr. Bellemare lectured extensively on criminal law issues to the Bar Admission courses, and to the police and legal communities, both in Canada and abroad.

He has published extensively in Canadian academic journals and he also published three books ("Comment Déposer Devant les Tribunaux: Le Témoignage du Policier"; -also published in English under the title “How to Testify in Court: The Police Officer’s Testimony”); “L’ Hébertisme Au Quebec”; and “L’ Écoute Electronique au Canada” in 2003, he was awarded the Meritorious Service Medal (MSM) by the Governor General of Canada for his work which has “enhanced the international reputation of Canada and the high standards of its justice system.” He was appointed Queen's Counsel in 1990 and in 1993 was awarded the Commemorative Medal for the 125th Anniversary of the Confederation. In 2008, the Quebec Bar awarded Mr. Bellemare the honorific title of “Advocatus Emeritus (AdE)” in recognition of his professional excellence and his outstanding contribution to the profession.

Mr. Bellemare was born in Canada in May 1952.