



Hariri Investigation: The Truth Jeopardized?

**Arbitrary detentions, "alarming" disappearances
and "suspicious" deaths**

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Introduction

This report is written at a time when the Special Tribunal for Lebanon is about to commence its work and hopefully shed some light on the truth in this case.

To establish the truth, the need of the hour is a completely independent and impartial justice system that respects the due legal procedures in respect of both the accused and the victims.... a system that is not clouded by suspicion and one that believes in the protection of information and witnesses at all stages of the investigation .

It is on account of these reasons and the inability of Lebanese regime under the erstwhile Syrian occupation to provide for these conducive conditions, that the International Independent Investigation Commission (UNIIC) was formed to investigate into the assassination of President Hariri, and the Special Tribunal for Lebanon was accordingly set up.

However, it is possible to discuss at length the merits of such a commission and such an "exceptional" tribunal. One might even be tempted to question as to why the international community chose to respond only in the case of assassination of Rafik Hariri while thousands of others, sometimes women and children, have been over the last thirty years, brutally massacred, tortured and deported in Lebanon.

Of course, as a sequel to such thoughts, an often repeated explanation afforded by many has been, *"let's begin by putting an end to impunity by arresting those responsible for the assassination of Rafik Hariri."* Well, if that's the case, then so be it...

But the pertinent question to still ask here is whether the international community has finally managed to take the necessary steps to get to the truth, thereby leading to a probable first victory on the expected impunity?

Four years of investigations, four years of questions and concerns...

We raise in this report various points which fall directly within the mandate of our organization, namely the question of arbitrary detentions and disappearances, qualified in this report as "alarming" - both for the investigation and for the individuals themselves . We also discuss some cases of "suspicious" deaths of those directly related to the investigation, which we believe deserve to be studied and investigated.

The report outlines the progress made since the assassination of Rafik Hariri on 14 February 2005, before discussing individual cases of violations.

I. Four years of investigation

Fact finding mission - Peter Fitzgerald

In a presidential statement on 15 February 2005, the UN Security Council condemned the attack against former Prime Minister Rafik Hariri and denounced the effect of destabilization and division of the country. The Security Council did not in this declaration, explicitly request for an international investigation, but expected the Lebanese government to bring to justice those responsible for the attack. The Security Council also invited the Secretary General to investigate the attack. A fact-finding mission led by Peter FitzGerald - Deputy Commissioner of the Irish Police Force - was formed for this purpose. Following the conclusion of these investigations on 24 March 2005, the Mission made public its findings that were very critical of Syria and the Lebanese authorities.

*"[...] the Mission concluded that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, and law and order in Lebanon. The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and have therefore contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon. It is also the Mission's conclusion that the Government of the Syrian Arab Republic bears primary responsibility for the political tension that preceded the assassination of the former Prime Minister, Mr. Hariri. The Government of the Syrian Arab Republic clearly exerted influence that went beyond the reasonable exercise of cooperative or neighbourly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri."*¹

¹ Report of the Fact-finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri, 24 March 2005, Doc. S/2005/203.

Establishment of an International Independent Investigation Commission.

In its Resolution 1595 (2005), 7 April 2005², the Security Council decides to establish an International Independent Investigation Commission based in Lebanon, to assist the Lebanese authorities in investigating all aspects of the terrorist attack that took place on 14 February 2005 in Beirut. This International Independent Investigation Commission (UNIIC) was headed by Detlev Mehlis, Serge Brammertz and Daniel Bellemare in that order, who released regular reports, which are characterized not merely by the style of the authors, but also influenced a great deal by the events in Lebanon during the investigation and the subsequent creation of the Special Tribunal for Lebanon.

The “Mehlis” phase – the Syrian track

Detlev Mehlis, a German judge, was head of the UNIIC from May 13th, 2005 until January 11th, 2006. He released 2 reports³ during his tenure. During this phase, it is important to emphasize that the Special Tribunal for Lebanon was not yet established.

The first Mehlis report describes the research carried out by the UNIIC and focuses on several aspects such as the crime scene, technical aspects of the crime, wiretapping, testimony of more than 500 witnesses and sources, and the institutional context in which the attack is recorded. Regarding the suspects, Detlev Mehlis described the arrest of General Jamil Sayyed, Ali el-Hajj, Raymond Azar and Mustapha Hamdan, on recommendation of the Commission on August 30th, 2005.

Detlev Mehlis concludes in this first report of "converging evidence" on the involvement of Syrian and Lebanese intelligence in the assassination of Rafik Hariri. It is well known fact that Syrian Military Intelligence had a pervasive presence in Lebanon at least until the withdrawal of the Syrian forces pursuant to resolution 1559 (2004). The former senior security officials of Lebanon were Syrian appointees.

² Resolution 1595 (2005), Adopted by the Security Council at its 5160th meeting, on 7 April 2005.

³ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005), 19 October 2005, Doc. S/2005/662.

Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005), 10 December 2005, Doc S/2005/775.

Given the infiltration of Lebanese institutions and society by the Syrian and Lebanese intelligence services working in tandem, it would be difficult to envisage a scenario whereby such a complex assassination plot could have been carried out without their knowledge.

In its second report of 10 December 2005, the UNIIIC develops further on the findings previously presented to the Security Council, and highlights the evolution of the Syrian cooperation with the UNIIIC. Mehlis reports named suspects and potential witnesses in this case. His reports were based on some dangerous assumptions, the publication of which will undoubtedly fuel existing controversies and also negatively impact on the political stability in Lebanon.

The « Brammertz » years – a prudent and opaque approach

Detlev Mehlis, whose mandate expired on 15 December 2005, did not wish to be reappointed. On 11 January 2006, Serge Brammertz, a Belgian jurist and a former federal prosecutor of Belgium and Deputy Prosecutor of the International Criminal Court, took over as the head of the UN probe into the killing of Rafik Hariri. The style of Serge Brammertz was undeniably different from that of his predecessor, in that it was more moderate, modest, and temperate.

The 7 reports⁴ brought out by Serge Brammertz, published every 3 months, are also more technical, because of the creation of the Special Tribunal for Lebanon.

⁴. Third report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005) and 1644 (2005), March 2006, Doc.S/2006/161 ;

Fourth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005) and 1644 (2005), 10 June 2006, Doc. S/2006/375;

Fifth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005) and 1644 (2005), 25 September 2006, Doc. S/2006/760 ;

Sixth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005) and 1644 (2005), 12 December 2006, Doc. S/2006/962 ;

Seventh report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005) and 1686 (2006), 15 March 2007, Doc. S/2007/150 ;

Eighth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005), 1686 (2006) and 1748 (2007), July 2007, Doc. S/2007/424 ;

Ninth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005), 1686 (2006) and 1748 (2007), 28 November 2007, Doc. S/2007/684

The inquiry –

Serge Brammertz remains very vague in this regard.

In the third report, he mentions about the UNIIIC, "*It is developing a deeper understanding of the structural and political environment in which the crimes took place, an enhanced capacity to pursue new lines of inquiry, and a methodological approach to ascertain the reliability of information obtained, corroborate new evidence and findings, and, where appropriate, review initial leads and working assumptions*".

In the 4th report, "*progress*" is mentioned, when he writes about the Commission strengthening its ability to investigate, its structure, conduct of the investigation, adapting its internal procedures to the standards and requirements of a future trial. The Commission's attention was focused on the results of scientific analysis of the place of crime and the explosion.

As for the 5th report, the Commission focused on the investigation into those involved at different levels of the attack.

The 6th report had three objectives: the use of evidence collected at the crime scene during the investigation and forensic analysis; identification of possible perpetrators, and the gathering of evidence related to the context of the case and its possible links with other cases.

The 7th report revealed that 'progress' made by the Commission in collecting new evidence and broadening the categories of evidence collected, allowed Brammertz to focus on certain aspects, particularly delving into the motive behind the crime.

Finally, the 9th Report of the Commission stressed on "*growing caution*" with regard to information management, explaining that this latest report will correspond to "*a general overview of the activities of the Commission [...] rather than a detailed account of progress made to date in connection with investigations*".

Witnesses and suspects –

Serge Brammertz set the tone with regard to witnesses and suspects, when he stressed that:

« the Commission and the Prosecutor General of Lebanon believe that placing information concerning witnesses and suspects in the public domain would be contrary to the principles of fairness and justice and would defeat the purpose of, and be prejudicial to, any case presented before a tribunal.

The Commission believes that this position is a standard investigative approach that also creates beneficial conditions under which witnesses, especially those considered sensitive owing to their placement and/or knowledge, can step forward to engage with the Commission in confidential circumstances.»⁵

Furthermore, although Serge Brammertz reveals in the latest 9th report of the UNIIC, that new persons of interest have been identified, no names have however, been revealed.

Syrian cooperation –

On the subject of Syrian cooperation, Brammertz, in stark contrast with his predecessor, has always stressed in his reports, of the noteworthy progress, and better cooperation from Syria, which facilitated *'information availability and conduct of interviews with individuals within Syrian territory'*, so much so that in the 6th report of the Commission, he talks about the cooperation from the Syrian authorities in much the same vein as cooperation with other Member States, specifying that the same is "valuable for the work" of the Commission.

Events marking the course of the investigation -

July 2006 war –

Due to the war in July 2006, the Commission's activities were temporarily shifted to Cyprus.

⁵ Sixth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005) and 1644 (2005), 12 December 2006, §10

Creation of the Special Tribunal for Lebanon –

After presenting its 6th report to the Security Council on 12 December 2006, Brammertz stressed that the investigation has no meaning unless it leads to a judicial process and is assigned to a Special Tribunal. Thus, in accordance with Resolution 1757, adopted by the Security Council on May, 30th 2007, the "legally binding" Agreement between the United Nations and Lebanon on the establishment of a Special Tribunal for Lebanon and the Statute of the Tribunal came into force on June 10th, 2007. Key milestone of the entire work of the UNIIC was the creation of the Special Tribunal for Lebanon, which has an undeniable impact on the work of the UNIIC; indeed, the Commission proceeded under the mandate of Serge Brammertz, in the consolidation of all information gathered by the Commission in a 2400 pages confidential report. Following the establishment of the Tribunal, a more "administrative" approach characterizes the reports of the UNIIC. Thus, the Commission has initiated preparations for the future transfer of a large volume of electronic data, etc., to the STL Prosecutor's office. In his latest report,, Serge Brammertz' underlines the collaboration with the team created to oversee the transition and the establishment of the first elements of a witness protection program.

Other attacks –

In addition to the bombing that killed Rafik Hariri and others, the mandate of the UNIIC includes, technical assistance to Lebanese authorities on any other terrorist attack that occurred in Lebanon between October 1st, 2004 and December 12th, 2005 or such later date if connected with the attack of February 14th, 2005, including for instance the assassination of Pierre Gemayel, Minister of Industry, on November 21st, 2006, Walid Eido in June 2007, Antoine Ghanem on September 19th, 2007, General Francois El Hajj on December 12th, 2007, and Wissam Eid on January 25th, 2008.

« Bellemare » phase - silence of the STL's Prosecutor

Serge Brammertz succeeded Carla del Ponte on January 1st, 2008, as Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, leaving his place at UNIIC to be filled by Daniel Bellemare. The style of the new head of the Commission is in line with Serge Brammertz. The "double – cap" of Bellemare as the "head of the Commission and Prosecutor of the Special Tribunal for Lebanon", must be taken into consideration regarding the "silence" of the Canadian

judge. Unlike his predecessor, Daniel Bellemare has submitted reports⁶ every 6 months; which are also less technical than Brammertz's.

In his first report, that is UNIIC's 10th report, Daniel Bellemare stressed that progress in the investigations during the period have allowed the Commission to confirm, on the basis of evidence gathered, that the assassination of Rafik Hariri was the result of a "network of individuals".

Bellemare doesn't provide information on the identity of the members of this network, noting that the names will be disclosed in the indictment which will be submitted by the Prosecutor, when the evidence is collected.

Because of the impending commencement of operations of the Special Tribunal for Lebanon, Bellemare stressed in this report on accelerating the pace of operations, including requests for double the assistance (from 123 to 256), as well as the ongoing preparation for the transfer of its activities to the Special Tribunal for Lebanon.

Judge Bellemare stresses in his second report (UNIIC's 11th report), that the start of the Special Tribunal for Lebanon, on March 1st 2009, does not mean that investigations have been necessarily completed. The report stresses that a further investigation may be necessary after the start of the Tribunal's work. As was done before, Daniel Bellemare talks of "details" that cannot be made public. The report does not dwell on the details of the investigation and mentions no suspect in order to preserve the safety of witnesses and ensure the secrecy of the investigation. The UNIIC reveals three new elements:

1. New information that may allow the Commission to link additional individuals with the "network" that planned and executed the attack on February 14th, 2005.
2. New evidence to determine the geographic origin of the possible perpetrator of the suicide attack.
3. There may be a link between one additional case and the Hariri case.

Finally, Daniel Bellemare describes the last phase of transition from the Commission to the Special Tribunal for Lebanon to The Hague.

⁶ Tenth report of the UNIIC established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005), 1686 (2006) and 1748 (2007), Mars 2008, Doc. S/2008/210 ;

Eleventh report of the UNIIC established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005), 1686 (2006), 1748 (2007) and 1815 (2008), December 3, 2008, Doc. S/2008/752.

II. Detainees in Hariri case

If an expression could be used to describe the issue related to the detainees in Hariri case, it would be "the tree that hides the forest." Each case hides another one.

Initially, the angry crowd after the assassination of Hariri called for the arrest of the four heads of security services who, in the eyes of all, represented symbols of a system dedicated to the deposed Syrian regime, namely General Jamil el Sayed, Director General of General Security, General Raymond Azar, head of military intelligence, General Mustafa Hamdan, head of the Presidential Guard, and General Ali el Haj, Head of Internal Security Forces. The four generals, notorious for their constant disagreements, found themselves suspected of having conspired together to assassinate Rafik Hariri, and detained. In this atmosphere of revolution prevailing in the country, only few people were interested in the fate of the generals, and in the fact that their detention, to be extended without charge, was a procedural flaw, and that they were victims of arbitrary detention.

In the shadow of these high profile generals, five civilians in this case, also without charge, have from the beginning of their detention, been completely ignored by the media and the public opinion.

When the United Nations Working Group on Arbitrary Detention declared on November, 30th, 2007 that these detentions were arbitrary, public opinion has focused on General Jamil el Sayed, the strong man of the country at the time of the assassination of Rafik Hariri.

And then suddenly, the arrest of the most controversial General, was soon translated into a public opinion that sought to justify the practice of arbitrary detention against him and the other eight detainees.

Everything has been said, at all governmental and international levels of government, to justify the practice of arbitrary detention in the case of the assassination of Rafik Hariri. The United Nations Working Group on Arbitrary Detention was called "NGO from Geneva", its opinion was characterized as "politicized and misleading", and then finally a newspaper has qualified, with plenty of supporting arguments (it is wonder why), that this opinion had "never existed".

The CLDH, which had sent jointly with the FIDH (International Federation of Leagues of Human Rights), the files of the detainees in the Hariri case to the United Nations Working Group on Arbitrary Detention, has been called upon on numerous occasions, to explain and justify its decision to send the files to the United Nations. A campaign of denigration was set up around our organization, which led us in March 2007 to publish the following statement, which is relevant even to this day:

«Today, the priority is to achieve truth and justice in the case of the assassination attempts against the life of Prime Minister Hariri and all the other victims of these crimes to whom we pay special tribute. An international inquiry commission and the set up of an international tribunal are absolutely necessary in this case to achieve this objective and we fully support this endeavor. What we are asking the Lebanese Justice System today is to make its decisions within the framework of the memorandum of understanding with the International Inquiry Commission in an independent, fair and unbiased manner and to strictly adhere to the international legislations that are signed by Lebanon, particularly the International Covenant on Civil and Political Rights. The fundamental issue for SOLIDA is not to take the defense of any particular individual or individuals. The critical issue is to demand the strict application of the legal due process that guarantees a fair trial.

Why do we ask for due process and fair trials? Simply because the respect of these rules is the sole and only guarantee that the guilty individual(s) will be prosecuted and sentenced. This is the only means to achieve the truth.

We want to know who killed Rafik Hariri, who killed Samir Kassir, who killed Gibran Tuani, who killed or injured all the others. Yet, we do not want the process to be in conflict with Human Rights because any technical flaw or irregularity in the legal process could lead the international tribunal to throw away the charges and render void the prosecution of any persons, even if they are guilty, and those persons will then escape justice for their crimes.

For us to accept that Human Rights principles be breached by the Lebanese Judiciary is tantamount to supporting a justice that is subservient to political pressure and to permanently renounce the truth about the crimes. If, on the other hand, and for the first time in Lebanon's modern history, due process and fair trials were carried out that lead to the uncovering of the truth and the punishment of those truly guilty, then there is hope that one day those responsible for gross violations of Human Rights will ultimately be held accountable for their actions.

We too want justice for the victims of egregious violations of Human Rights, particularly torture, since these individuals are scarred for life by their painful ordeal. That is the reason why we published our October 2006 report on torture at the Lebanese Ministry of Defense, and why we continuously ask that the alleged perpetrators of these violations be brought to justice, something that the Judiciary has so far refused to do.

But in order to give justice to the victims, the perpetrators must be given a fair trial. To provide justice is not to take revenge, even if the latter is a very human impulse. To provide justice is to find the truth and obtain reparation. One cannot mend Human Rights violations by perpetrating other violations. Only the truth, the punishment of the culprits, the compensation of the victims, public apologies and explanations, can ever so slightly provide compensation for the victims.

We ask Lebanese civil society organizations, international organizations and the International Inquiry Commission to join us in demanding that the Lebanese Justice system respects Lebanon's international obligations in the area of Human Rights in order to guarantee the disclosure of the truth. »

The Arrest and the Reasons given by the authorities to justify the detentions

There are now seven individuals in custody: four generals, two brothers of the Abdel Aal family, and the Syrian Ibrahim Jarjoura. Two other individuals, Ayman Tarabay and Moustapha Talal Mesto were released after a long arbitrary detention of nearly three years. The report's aim is definitely not to exonerate the persons in custody - only judicial process can and will decide thereon - but to allow the public to look beyond what has been projected in the media, and build their own opinion on the detainees in the Hariri case; an opinion that is an individual independent opinion on each person detained. It is our earnest hope that the public will be able to look at the detainees as 'individuals' and not just as a "group of suspects",

The Arrest

« On 30 August 2005, at 5:30 in the morning, patrols of the Commission of Inquiry came to the home of General Jamil El Sayed, former Director of General Security in Lebanon, handed over an order signed by the President of the Commission of inquiry, Mr. Mehlis in which General El Sayed was described as a "suspect". General El Sayed was then taken to the headquarters, where he was subjected to prolonged interrogation by an investigator from the Commission, and in the absence of counsel.

General Mustapha Hamdan was head of the Presidential Guard, General Raymond Azar was Intelligence chief of the army while General Ali El Haj was Head of Internal Security Forces. As was the case with General El Sayed, Generals Hamdan, Azar and El Haj were all arrested on 30 August 2005, in their respective residences by representatives of the International Commission of Inquiry, who were assisted in this task by the security forces in Lebanon. A search warrant was produced and their houses were searched. The generals were then taken to the Headquarters of the International Commission of Inquiry to Monteverdi.

They were arrested following their hearing at the Commission of Inquiry on the same day. The three soldiers were questioned for three days without a lawyer. (The Code of Criminal Procedure allows a Lebanese police custody for 24 hours, renewable once, without a lawyer.)

On September 3^d 2005, the Lebanese investigating magistrate, M. Elias Eid⁷, ordered their detention. Held for the purposes of investigation, they "have not been charged. However, requests for release made by their lawyers were denied by the investigating magistrate. The Generals were then transferred to Roumieh prison, where they remain detained in solitary confinement under the exclusive control of the intelligence services of the Ministry of Interior.

Mr. Ahmad Abdel Aal was in charge of public relations of a Muslim charity. He was summoned on September 28th, 2005 by a military judge who wanted to hear his statement in a case of arms trafficking. He was detained at the detention center of the Military Court in Beirut. While the military judge ordered his release on bail, the UNIIIC, together with the Lebanese police, requested his detention. He was then brought before the investigating magistrate Elias Eid, who on October 21st, 2005 ordered his detention. Mr. Ahmad Abdel Aal told his lawyer that he was forced to sign statements that he could not read because of his poor vision and because he did not have his glasses. The authorities suspect him of having telephonic contact with officers suspected of complicity in the assassination of Rafik Hariri, but no charges were brought against him. Mr. Ahmad Abdel Aal has been diagnosed as suffering from cancer and his health situation is quite worrying.

Mahmoud Abdel Aal, Director of the electricity company Delbani, was arrested on October 21st, 2005, convened by the police gendarmerie Basta. Then he was transferred to the headquarters of the intelligence services of the Interior Ministry in Beirut, where he was detained for five days. Then he was further transferred to the Palace of Justice where he was kept for one day. Since October 26th, 2006 he is being detained in Roumieh prison under the exclusive control of the intelligence services of the Ministry of Interior on charges of having contacts with the persons suspected of being involved in the attack against Rafik Hariri.

⁷ Investigative Magistrate Elias Eid resigned his post in March 24th, 2005 and Magistrate Saqr Saqr took over.

*Ayman Tarabay and Moustapha Talal Mesto worked as vendors in the field of mobile telephone. They were arrested on September 13th, 2005 for selling phone cards around the period of the assassination, without ascertaining the identity of purchasers of the phone cards. Mr. Talal Mesto was detained for a month at the headquarters of the intelligence services of the Ministry of the Interior. Then he was transferred to Roumieh prison. The two men were detained in solitary confinement until December 7th, 2006. Their detention was ordered by the investigating magistrate Elias Eid, but they have not been charged with any crime.*⁸

Ayman Tarabay and Moustapha Talal Mesto were released on bail on August 6th, 2008 after nearly 3 years of arbitrary detention.

Ibrahim Jarjoura, Syrian, is being held in Roumieh prison, in the pre-trial building since 2005 for his alleged involvement in the assassination of Rafik Hariri. It appears that Mr. Jarjoura suffers from mental illness or has been induced to sign a false admission of guilt. Charged with the crime of perjury, he remains detained without trial for nearly 4 years.

Reasons given by the authorities to justify the detentions

Whenever the lawyers of the detainees complain of not being allowed access to their clients' files (which is in clear contravention of both Lebanese law and international law), following are some of the responses put forth by the Lebanese judiciary in this regard.

The detention of the generals is apparently exclusively based on the "recommendations" issued by the UNIIIC, following accusations by a witness. Thus, in its first report, the Commission states:

« One witness of Syrian origin but resident Lebanon, who claims to have worked for the Syrian intelligence services in Lebanon, has stated that approximately two weeks after the adoption of Security Council resolution 1559 (2004), senior Lebanese and Syrian officials decided to assassinate Rafik Hariri.

⁸ WGAD, Opinion 37/2007

He claimed that a senior Lebanese security official went several times to the Syrian Arab Republic to plan the crime, meeting once at the Meridian Hotel in Damascus and several times at the Presidential Place and the office of a senior Syrian security official. The last meeting was held in the house of the same senior Syrian security official approximately 7 to 10 days before the assassination and included another senior Lebanese security official. The witness had close contact with highly General Al-Sayyed, according to the witness, cooperated closely with General Mustapha Hamdan and General Raymond Azar in the preparation of the assassination of Mr. Hariri. He also coordinated with General Ghazali [...]. General Hamdan and General Azar provided logistical support, including money, telephones, cars, walkie-talkies, pagers, weapons, identification cards, etc. Those who knew of the crime in advance others, Nasser Kandil and General Ali Al-Hajj.

On 30 August 2005, the Lebanese authorities arrested and detained four high-level officials of the Lebanese security and intelligence apparatus, arrest warrants issued by the Lebanese Prosecutor General based on recommendations from the Commission that there was probable cause to arrest and detain them for conspiracy to commit murder in connection with the assassination of Rafik Hariri. The individuals arrested were General Jamil Al-Sayyed, former director-general of the Sûreté générale; General Ali Al-Hajj, former head of ISF; General Raymond Azar, former head of military intelligence; and General Mustapha Hamdan, Commander of the Republican Guard Brigade. »⁹

Since the arrests were based on these "recommendations", the UNIIIC kept deferring the sole responsibility of these detentions on the Lebanese judiciary¹⁰, with the latter claiming that is, in this matter relying on the recommendations that were initially made. The facts mentioned in the first report of the UNIIIC, which formed the reason for the arrest of the generals have never been raised again in the ten subsequent reports of the Commission.

⁹ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005), October 19th, 2005, §96, §101, §174

¹⁰ Appendix 1 and 2 - Letters of the UNIIIC, Serge Brammertz

The defense of General al-Sayed said that on September 1st, 2005, the latter:

« was convened at the Commission to be confronted with a witness in the presence of his lawyer and investigators of the Commission. The interview was recorded and filmed. The witness had his head covered by a bag, except his eyes. The witness said that General El Sayed has made seven trips to Damascus between November 2004 and February 2005 for meetings with the head of the Syrian Presidential Guard and head of Syrian military intelligence in planning the assassination of President Hariri and that the last time he was accompanied by General Mustapha Hamdan, the Head of the Lebanese Presidential Guard at the time. El Sayed denied these meetings and requested more details about their dates. He also asked investigators to check any date in his diary. The masked witness was unable to identify one of the dates of alleged meetings in Syria in September. General El Sayed was detained at the disposal of the Commission on the basis of the record that it had notified investigators the night of August 30.

On September 3rd, 2005, he was brought before the Lebanese investigating magistrate, Mr. Eid, who submitted to a pure form of interrogation that lasted over an hour. Following the examination, the magistrate issued an arrest warrant against him.

On October 19th, 2005, the Commission presented its first report to the Security Council. The report accuses the generals El Sayed, Mustapha Hamdan and Raymond Azar to be part of the main organizers of the assassination of President Hariri. General El Sayed has read the passages concerning himself six months following the submission of the report.

The charges against General El Sayed are mainly based on statements given by two individuals (identified as "witnesses"). The first one, Mr. Houssam Houssam, is probably the masked individual with whom the General El Sayed was confronted on September 1st, 2005. He then publicly recanted his statement at a press conference held on November 27th, 2005. No comparison was made later on with Mr. Houssam, either before the Commission, or before the investigating magistrate, who did not interview him until now.

The second witness is Mr. Zouhair El-Saddik, who acknowledged to the Commission that he participated in the preparatory phase of the crime. The Lebanese magistrate has not interviewed Mr. El-Saddik, and no confrontation has been organized with General El Sayed. M El-Saddik left for France where he lives today in freedom. "

Abdel Aal brothers and three other civilians - The detention of Abdel Aal brothers seems to be based on the mention of their names in the two first reports of the UNIIC. No information concerning them has been raised in the ten following reports. As for Ahmad Abdel Aal, the first report of the Commission concludes that:

« The evidence, including his links to other important figures, especially Mustapha Hamdan and the Republican Guard, his telephone calls and his involvement in the Lebanese investigation into Mr. Abu Adass, make Ahmad Abdel-AI a key figure in any ongoing investigation. »¹¹

According to the reports of the Commission, Mahmoud Abdel Aal seems to have been arrested for his close relationship with Ahmad Abdel Aal, since his case is mentioned in Detlev Mehlis' first report, as:

« Abdel-AI has been in frequent contact with Mahmoud Abdel-AI, his brother, who is also active in Al-Ahbash. Mahmoud Abdel-AI's telephone calls on 14 February are also interesting: he made a call minutes before the blast, at 1247 hours, to the mobile phone of Lebanese President Emile Lahoud and at 1249 hours had contact with Raymond Azar's mobile telephone. »¹²

The three other civilians appear to have never really interested the UNIIC, which has never mentioned their name in its reports.

¹¹ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005), 19 October 2005, §214

¹² Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005), 19 October 2005, §212

From the reports of the UNIIIC, the questions raised are the following:

- ***Do the 7 persons currently in detention present an interest in investigating the assassination of Rafik Hariri, which could justify their ongoing detention?***
- ***If these 7 people played a role in the assassination of Rafik Hariri, why were they not charged?***
- ***And if they do not play such a role, then who are the suspects in the assassination of Rafik Hariri?***

Disparities in the treatment of witnesses and suspects: are the appearances guaranteed?

Raed Fakhreddine

About Fakhreddine Raed, the first report of the Commission states that:

« Raed Fakhreddin is strongly suspected to have bought the prepaid cards which were used to organize the assassination. The prepaid card also had contacts with another telephone number which was in contact with Raed Fakhreddin's mobile phone in December 2004, and January, February and March 2005. »¹³

While the so-called Raed Fakhreddin, arrested in 2005, was released shortly after his hearing, Ayman Tarabay and Moustapha Talal Mesto, two phone vendors who obviously do not know about the people who perpetrated the attack and who have never really been of interest to the commission, remained in custody.

It is likely that because of his kinship with "Tarek Ismat Fakhreddin, businessman and advisor to former Prime Minister of Lebanon, Omar Karami " ¹⁴ the suspect Raed Fakhreddin saw himself not being arbitrarily detained by the Lebanese judiciary, while people with no political support or backing remained for long periods of time in arbitrary detention.

Zuhir Ibn Mohamed Saïd Saddik

In its second report, the UNIIIC stated that:

« Mr. Saddik initially came forward as a confidential witness to UNIIIC with detailed information about the assassination of Mr. Hariri.[...] Based on statements he made to the Commission, he was later determined to be a suspect in connection with the investigation [...].

¹³ Ibid, 19 octobre 2005, §200

¹⁴ Ibid, 19 octobre 2005, §150

On 12 October 2005, an international arrest warrant was issued for Mr. Saddik, who was residing in France, at the request of the Lebanese Government, which also requested his extradition. Mr. Saddik was arrested by the French police on 16 October 2005. UNIIIC has since submitted requests through the Lebanese Government to the French authorities to obtain permission to interview Mr. Saddik, who remains in French custody. Arrangements are being made with the French authorities for conducting that interview In order to further investigate Mr. Saddik's statements about the planning and execution of the crime, the Commission obtained DNA samples from Mr. Saddik, as well as from his wife, children and brothers-in-law. Those samples were analysed to determine whether there was a match with either evidence from an apartment in Al-Dahiyye, Beirut, in which Mr. Saddik stated he attended planning meetings, or evidence retrieved from the crime scene. The results of those comparisons were negative»¹⁵

- ***How did Zuhir Ibn Mohamed Said Saddik, described as « suspect », leave for France?***
- ***Is his appearance in Court is guaranteed, knowing that in he now lives in France in freedom?***

Houssam Houssam

According to the second report of the UNIIIC:

«Since the release of the previous report, the identity of one such previously confidential source has been disclosed. That source, Hussam Taher Hussam, has recently appeared on Syrian television withdrawing his prior testimony to UNIIIC and claiming that this testimony, which implicated high-level Syrian officials in the assassination, had been coerced.

¹⁵ Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005), 10 december 2005, §27, §28

His appearance on Syrian television was apparently at the behest of the Syrian Judicial Commission charged with investigating the Hariri assassination. The UNIIIC investigation into Mr. Hussam's current claims is continuing. The Commission has learned that, before his current trip to the Syrian Arab Republic, Mr. Hussam provided to close friends an account of the assassination that was similar to the account he provided to UNIIIC. The Commission has also received credible information that, prior to Mr. Hussam's recent public recantation of his statement to UNIIIC, Syrian officials had arrested and threatened some of Mr. Hussam's close relatives in the Syrian Arab Republic. Preliminary investigation leads to a conclusion that Mr. Hussam is being manipulated by the Syrian authorities, raising serious questions about whether the Syrian Judicial Commission is committed to conducting an independent, transparent and professional investigation into the crime. »¹⁶

- ***Why, if Houssam Houssam actually was subjected to pressure, nothing has been done to protect this witness?***

- ***Where is Houssam Houssam today? Have steps been taken to ensure his appearance in the trial of persons against whom he testified, and whose detention is based on his statements?***

¹⁶ Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005), 10 December 2005, §30

Why are the detentions arbitrary?

The UN Working Group on Arbitrary detention¹⁷ underlines that:

« On 30 August 2005, General Jamil El Sayed, Mustapha Hamdan, Raymond Azar and Ali El Haj, and then on 13 September 2005, Ayman Tarabay and Moustapha Talal Mesto and finally on 21 October 2005, the brothers Ahmad and Mahmoud Abdel Aal all had been arrested and questioned by investigators of the International Commission of Inquiry who then recommended their detention to the Lebanese judiciary.

In its response, the Government asserts that the above eight people were detained as suspects under the Code of Criminal Procedure by the Lebanese magistrate appointed by the Lebanese judiciary to investigate the assassination of Rafik Hariri and that these people continue to be held in that capacity to date.

The documents submitted to the Working Group show that the Lebanese authorities had initially given the criminal investigation to military magistrate Rashid Mezher principal who is responsible for the period from 14 to 21 February 2005. At that time, the Lebanese Government decided to consider the crime as a terrorist act aimed at the Republic, which led him to entrust the case to another court, the Council of Justice, which is the highest criminal court in Lebanon. As a result of this decision, a new judge was appointed to head the investigation, Judge Michel Abou Arraj, representing the Attorney General. On 23 March 2005, Judge Abou Arraj resigned as magistrate and was replaced by the magistrate Elias Eid. It is the latter who ordered the detention of these persons. In his last reply, the source said that the magistrate Elias Eid has been suspended from duty following a complaint from one of the lawyers for the civil party.

¹⁷ The UN Working Group on Arbitrary Detention is a "special procedure", ie a mechanism established by the Commission on Human Rights, taken over by the Council of Human Rights which deals with the thematic issue of arbitrary detentions in all regions of the world. The Working Group receives information on specific allegations of arbitrary detention, sends urgent appeals or letters of allegation to governments asking for explanations, and gives opinion. WGAD, Opinion 37 / 2007.

It is not disputed that the aforementioned eight people were detained under warrants issued by a Lebanese judicial authority that is officially responsible for the criminal investigation into the assassination of Rafik Hariri. The Lebanese Government has neither contested that the eight people remain in detention at the request of the international commission of inquiry, nor claimed that this measure was taken in carrying out its obligations under resolution 1595 (2005) Security Council. The Task Force concludes that if the examination of the communication concludes in arbitrary detention, the Lebanese government takes full responsibility.

To justify the continued detention of eight persons for over two years without charge and notification, the Government relies on the complexity of the case and the provisions of the Lebanese Penal Code which permits detention for an unlimited period in respect of persons suspected of having committed an offense.

The Working Group recalls that it is not sufficient that detention is in conformity with national legislation, national law must also conform to relevant international provisions set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments which the State has acceded to, in this case the articles 9 and 14 of the International Covenant on Civil and Political Rights ratified by Lebanon.

Paragraph 1 of Article 9 guarantees everyone the right to personal freedom, prohibits the arrest and arbitrary detention and provides that no one shall be deprived of his liberty except on such grounds and in accordance with the procedure established by law. The prohibition of arbitrary detention referred to in paragraph 1 means that the law itself must not be arbitrary. The Committee has been clear that the deprivation of liberty permitted by law must not be manifestly disproportionate, unjust or unpredictable.¹⁸

¹⁸ The Human Rights Committee has considered, in the framework of a temporary or pre-trial detention of a judicial nature, that: "The drafting history of article 9, paragraph 1, confirms that "arbitrariness" is not to be equated with "against the law", but must be interpreted more broadly to include elements of inappropriateness, injustice and lack of predictability". See: Decision of 23 July 1990, Communication No. 305/1988, Hugo van Alphen v. The Netherlands, paragraph 5.8, CCPR/C/39/D/305/1988 of 15 August 1990.

Paragraph 2 of Article 9 states that "any person arrested shall be informed, upon arrest, the reasons for his arrest and shall be in the shortest period of time informed of any charges against him."

Paragraph 3 adds that in the event of any person arrested or detained on a criminal charge, he shall be brought "soon" before the judge or other officer authorized by law to exercise judicial power and must be tried within a reasonable time or released. The Committee on Human Rights stated that "soon" means that the time must not exceed a few days.

In this case, it is true that the eight detainees were brought before the magistrate for the process to appear 'reasonable' and the latter decided to keep them in detention for investigation purposes without charge and without notifying them of specific charges. The Working Group considers that the continued detention without charge and without notification of charges for more than two years deprived the accused of the guarantees afforded to any person formally charged with a criminal offense, including the right to know charges against him/her and the right to be tried within a reasonable time or released¹⁹.

The Working Group reiterates that in international law, detention before sentencing should be the exception rather than the rule, a rule which is the principle of presumption of innocence. The Committee of Human Rights has stated that even if it is initially lawful, deprivation of liberty is arbitrary and is incompatible with Article 9 of the Covenant on Civil and Political Rights, if its duration is unlimited.²⁰

The Working Group concludes that the continued detention of the eight individuals mentioned above, indefinitely, without charge and without trial, violates the basic norms of fair trial as guaranteed by international standards and gives the detention an arbitrary character.

¹⁹ CCPR/C/GC/32 para.31 et 35

²⁰ Human Rights Committee, A v Australia, communication 560/93, views adopted 3 April 1997, para.7

In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Jamil El Sayed, Mustapha Hamdan, Raymond Azar and Ali El Hajj, Ayman Tarabay, Moustapha Talal Mesto, Ahmad and Mahmoud Abdel Aa, is arbitrary in that it contravenes the provisions of Articles 9 and 14 of the International Covenant on Civil and Political Rights to which Lebanon is a party, and falls within category III of the categories applicable to the consideration of cases before the Working Group.

The Working Group, having rendered this opinion, requests the Government to take the necessary steps to remedy the situation of these persons, in accordance with the standards and principles of the International Covenant on Civil and Political Rights. "

NB: It should be noted that the case of Ibrahim Jarjoura had not been brought to the attention of our organization when submitting the communication to the Working Group on Arbitrary Detention. This is the reason why it is not listed here.

Detention in an illegal prison

According to the information available to us, the prison where six of the seven accused in this case, are being detained, is not registered as an official prison. Although located inside the central prison of Roumieh, the "Building Maalumet" is allegedly under the exclusive control of the intelligence services of the Internal Security Forces and is beyond the control of the Lebanese prison management.

III. « Alarming » disappearances

Following the course of the investigation, our organization has noticed several cases of disappearances. We are not talking here about enforced disappearances as defined by the International Convention for the Protection of All Persons against Enforced Disappearance²¹. We're talking here about alarming disappearances. These disappearances are alarming, both for the investigation – in as much as this can have a bearing on the revelation of the truth – and also about the fate of the concerned person.

Ahmad Abu Adass

According to the first report of the UNHCR, a letter with an accompanying video claimed responsibility for the attack against Rafik Hariri.

« « 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 5th 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.

²¹ Enforced disappearance is defined as “ the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law ” – Article 2, International Convention for the Protection of All Persons from Enforced Disappearance.

Soon after the airing of the tape, the Lebanese authorities 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-AI, of Al-Ahbash, an Islamic group active in the area of the Palestinian camps where Mr. Abu Adass had reportedly lived. Sheikh Abdel-AI stated to the Commission that he had received a telephone call from the Presidential Palace shortly after the airing of the Abu Adass video, enquiring whether Mr. Abdel-AI had any information about Mr. Abu Adass. According to Mr. Abdel-AI, 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-AI also obtained the names of Mr. Abu Adass's family and friends: he sent this information by facsimile to President Lahoud, Ali Al-Hajj, Albert Karam, Jamea Jamea and Maher al Toufeily. Sheikh Abdel-AI reportedly also met with Jamea Jamea, a Syrian intelligence official, on the evening of 14 February 2005 and gave him the information about Mr. Abu Adass, which Jamea Jamea subsequently relayed to ISF.

ISF visited Mr. Abu Adass's 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 had been downloaded from the Internet, there was no indication that Mr. Abu Adass's home had Internet access. Many of Mr. Abu Adass's friends and relatives were interviewed extensively by the authorities (including by 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 the 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»²²

²² Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005), Detlev Mehlis, Commissioner, Beirut, 19 October 2005, §79, §80, §81

Missing since January 16th, 2005

« Mr. Abu Adass's mother, Nehad Moussa, was interviewed by the Commission on 7 July 2005 and had previously been interviewed at least four times by Lebanese authorities, the first time on 14 February 2005. She and Mr. Abu Adass's father, Tayssir, had been illegally detained for approximately 10 days. She stated that she had told the Lebanese authorities the following: Mr. Abu Adass had disappeared on 16 January 2005 and had not been heard from since. According to her, in early January 2005, Mr. Abu Adass explained to her that he had met an individual whom she knew only as "Mohammed" who wanted to convert to Islam from Christianity and that Mr. Abu Adass was helping him. Mr. Abu Adass reported that Mohammed appeared to be wealthy and he would occasionally disappear for a period of a week or so. After one such disappearance, on the evening of Saturday, 15 January 2005, Mohammed called their home. Mohammed told Mr. Abu Adass that he would come to pick him up the next morning to reveal a surprise. Mr. Abu Adass left with Mohammed that Sunday, 16 January 2005, promising his mother he would be out for only a few hours, since she had requested that he stay to help her clean a large carpet. Mr. Abu Adass never returned. On Monday morning, Mr. Abu Adass's mother received a call from an individual who told her not to worry about Ahmed as he was in Tripoli where their car had broken down and they were just waiting to have it fixed. Ms. Moussa understood that this was the same individual called Mohammed whom she had spoken to on the telephone two days earlier. She asked to speak to her son, but was told that her son was waiting at a house without a phone and the caller was in the car shop. The caller told Ms. Moussa that her son would be back in time to help clean the carpet. At approximately 9 p.m. that same day, she received another call from the individual called Mohammed who said they had not had an accident and had not broken down. The caller went on to say that Mr. Abu Adass wanted to go to Iraq and would not be coming back. When Ms. Moussa expressed surprise and stated that Mr. Abu Adass had never mentioned any such interest before, the caller said he would try to get her Mr. Abu Adass's phone number so she could try to change his mind.

The caller hung up and never called back. The family filed an official missing person's report with ISF on 19 January 2005.»²³

In the ninth report of the UNIIC, it is stated that :

« Following the consolidation of the Commission's findings on Ahmed Abu Adass, the individual appearing in the video claim of responsibility for the assassination of Rafik Hariri, the Commission is satisfied that it has reached a comprehensive understanding of the background, family circumstances, political and religious views and employment history of Ahmed Abu Adass. As indicated in the Commission's previous report and based on its findings to date, the Commission has concluded that Ahmed Abu Adass is not the suicide bomber who carried out the attack on Rafik Hariri. »²⁴

- ***The question raised is: what happened to Ahmed Abu Adass?***

²³ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005)- Detlev Mehlis, Commissioner - Beirut, 19 October 2005, §179

²⁴ Ninth report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005), 1636 (2005), 1644 (2005), 1686 (2006) and 1746 (2007), Serge Brammerz, Commissioner, Beirut, November 2007, §34

" Alarming disappearances " on the trail of Abu Adass: what happened to Ziad Ramadan and Khaled Taha?

Ziad Ramadan and Khaled Taha seem to be among those having the closest relationship with Ahmad Abu Adas. Thus, those individuals are very important to provide information on the disappearance of one who - voluntarily or not - claimed responsibility for the bombing that killed Rafik Hariri.

Ziad Ramadan

According to the first report of the UNIIIC :

«In a follow-up interview with the Commission, Ms. Moussa added that Mr. Abu Adass's best friend was a man by the name of Ziad Ramadan [...] The last contact she had with Mr. Ramadan was when he called her several days after her son disappeared to ask if she had any news from her son. »²⁵

The second report of the UNIIIC indicates that:

« More recently, on receiving media information that Mr. Ramadan had been imprisoned in the Syrian Arab Republic, the Commission also submitted requests to Syrian authorities on 4 November 2005 for information about the reason for Mr. Ramadan's arrest and to interview him. The Commission has not yet received any further details from the Syrian authorities regarding Mr. Taha, other than confirmation that he had entered the country.

Regarding Mr. Ramadan, the Syrian Judicial Commission advised UNIIIC that it had interrogated him on 8 November 2005 regarding his relationship to Mr. Abu Adass. The Commission then arranged through the Syrian authorities to interview Mr. Ramadan. That interview took place on 1 December 2005. In the interview, Mr. Ramadan stated that he met Mr. Abu Adass at the end of 2002, when they were both employed at the same computer company.

²⁵ Report of the International Independent Investigation Commission, 19 October 2005, §180

Mr. Abu Adass had told him about the individual named "Mohammed" whom Mr. Abu Adass had befriended at the mosque, information which had been relayed to both the Lebanese authorities and UNIIIC by Mr. Abu Adass's mother. Upon learning from Mr. Abu Adass's family that he had left home on 16 January 2005 with an unknown man and had subsequently disappeared, Mr. Ramadan immediately wondered whether that person was "Mohammed". Mr. Ramadan did not know any of Mr. Abu Adass's other friends or associates and could shed no light on Mr. Abu Adass's whereabouts or the identity of "Mohammed". He confirmed that Mr. Abu Adass did not have the ability to drive a car and that there was no Internet connection in Mr. Abu Adass's house.

Mr. Ramadan stated that he left Lebanon for the Syrian Arab Republic in March 2005 because he was Syrian in light of allegations of the implication of the Syrian Arab Republic in the assassination of Mr. Hariri, and also because he was aware that Lebanese military intelligence was looking for him. Mr. Ramadan then voluntarily surrendered to the Syrian authorities on 21 July 2005 upon learning that they were looking for him. According to Mr. Ramadan, he has been arrested and detained without charges since that date, and he has been interviewed six times by Syrian intelligence. Not only has UNIIIC yet to receive from the Syrian authorities any records of those interviews with Syrian intelligence, but, in the course of interviewing Syrian officials in September 2005, UNIIIC investigators specifically inquired as to whether the Syrian Arab Republic had conducted any investigation into the Hariri assassination. They were informed then that the Syrian Arab Republic had not. It was only in December 2005, through its interview of Mr. Ramadan, that UNIIIC learned that Mr. Ramadan, obviously a figure of interest in the Hariri investigation, had been in custody in the Syrian Arab Republic since July 2005 and had been interviewed six times by Syrian intelligence. »²⁶

²⁶ Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005), Detlev Mehlis, Commissioner, 10 December 2005, §59 to 63.

Khaled Taha

« One individual whom neither the Commission nor the Lebanese authorities was able to interview so far was Khaled Midhat Taha, another religious associate of Mr. Abu Adass, who is of significant interest based on the travel records available for him and some unusual coincidences. [...]. According to travel records, Mr. Taha departed from Beirut International Airport for the United Arab Emirates on 21 July 2003 and returned to Beirut on 17 October 2003. The next record for him is an entry into Lebanon coming from the Syrian Arab Republic by land on 15 January 2005, the day before Mr. Abu Adass's disappearance. The next day, Mr. Taha left Lebanon by land towards the Syrian Arab Republic. The records do not show a departure from Lebanon prior to 15 January 2005, which indicates that he entered the Syrian Arab Republic prior to that date illegally. Further investigation revealed that three of Mr. Taha's e-mail addresses went through Damascus and the fourth went through Lebanon itself while purporting to be in Turkey. Moreover, the date of his final departure for the Syrian Arab Republic from Lebanon — 16 January 2005 — is the same as the date of Mr. Abu Adass's disappearance, suggesting a possible link between Mr. Taha's trip to Lebanon and Mr. Abu Adass's disappearance. Moreover, as the Lebanese authorities noted in their report, he was never arrested for his apparently illegal entry into the Syrian Arab Republic prior to 15 January 2005, even upon his return to the country on 16 January, an uncommon occurrence, suggesting that his departure and entry the following day had been facilitated by someone. The Syrian authorities have recently been approached by the Commission to provide it with detailed information on Khaled Taha, especially his travel records into and out of the Syrian Arab Republic.»²⁷

However, Ziad Ramadan for the last time, was located in prison in Syria, while Khaled Taha apparently escaped from being arrested.

<p>▪ Have adequate measures been taken to ensure their appearance?</p>

²⁷ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005)- Detlev Mehlis, Commissioner - Beirut, 19 October 2005, §182.

IV. Suspicious deaths

In addition to the case of Ahmad Abu Adass, some individuals who in all likelihood would have been in a position to provide valuable information in the investigation into the assassination of Rafik Hariri, have died in suspicious circumstances.

Death of Tayssir Abou Adas, father of Ahmad Abou Adas

The first report of the UNIIIC indicates that:

« The Commission was unable to interview Mr. Abu Adass's father, who had been interviewed by the Lebanese authorities on 14 February 2005, because he died on 7 March shortly after being called to appear before the investigative judge. Mr. Abu Adass's mother, Nehad Moussa, was interviewed by the Commission on 7 July 2005 and had previously been interviewed at least four times by Lebanese authorities, the first time on 14 February 2005. She and Mr. Abu Adass's father, Tayssir, had been illegally detained for approximately 10 days »²⁸

We were unable to interview the family of Ahmad Abu Adas while writing this report, but we believe that the circumstances of the death of Tayssir Abu Adas shortly after his interrogation need to be looked into....

Nawar Donna

A man named Donna Nawar, a witness in the case of the assassination of Rafik Hariri, died in a suspicious manner in an accident on November 25th, 2005. Questioned by the UNIIIC and by the Lebanese judiciary in the case of five of the eight cell phones that were used during the attack against Rafik Hariri, Nawar Donna, who had a phone shop in Mina, Tripoli, died along with another person when their vehicle fell into a valley on the road to Bteghrine in the Upper Metn region.

The circumstances surrounding his death need to be seriously investigated.

²⁸ Report of the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005)- Detlev Mehlis, Commissioner - Beirut, 19 October 2005' §178, §179.

Annexe 1.

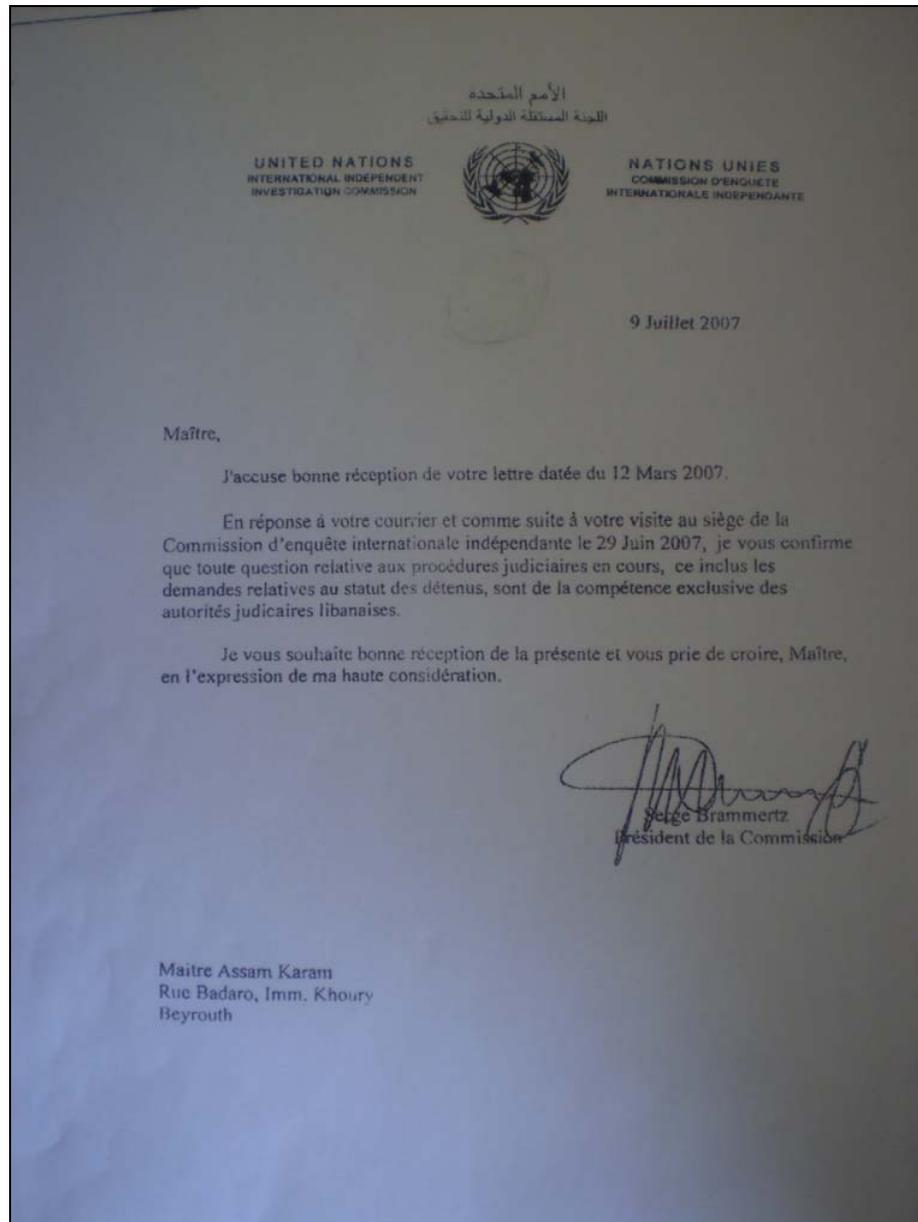
Letter from the UNIIC to Maître Issam Karam, 14 September 2007²⁹



²⁹ Translation made by the CLDH: "Dear Lawyer, I read your letter dated 21 August 2007 concerning the freezing of bank account of your client. As I have said in the past, the Commission has no jurisdiction in this matter, any decision in this matter rests exclusively with the Lebanese authorities. Kindly accept assurances of my highest consideration."

Annexe 2.

Letter from the UNIIC to Maitre Issam Karam, 9 July 2007³⁰.



³⁰ Translation made by the CLDH "I hereby confirm the reception of your letter dated March 12, 2007. In response to your letter and your visit to the headquarters of the International Independent Investigation Commission on 29 June 2007, I confirm that all matters related to judicial proceedings, including requests for the status of detainees rest exclusively with the competence of the Lebanese judicial authorities. Kindly accept assurances of my high consideration."