

## **Lebanese Republic Judicial Council**

Case file No.: 1/1996

Judgement No.: 1/1997

Date: 17 January 1997

### **Judgement in the case of the homicide of Sheikh Nizar al-Halabi**

- Plaintiffs:**
1. Public Prosecutor's Office
  2. Association of Islamic Philanthropic Projects
  3. Ms. Aisha Abd al-Hafiz Saad, mother of the victim
  4. Ms. Hibah Wajih al-Dhahabi
  5. Heirs of the victim, his minor children Mohammed, Bilal and Salim, who are in the custody of their mother Hibah Wajih
  6. Ramadan Khaled al-Tabash
  7. Nabil Yahya al-Din al-Dhaw

Their counsel: Nasri al-Maalouf, Naji al-Boustani, Ghassan Akari, Mohammed Maarouf Khalili, Joseph Adwan, Elias al-Hashim, Fadi Ghazawi and Joseph Boustani

**Defendants:**

**Present:**

1. Khaled Mohammed Hamid
2. Mounir Salah Aboud
3. Ahmad Munthir al-Kasm
4. Wasim Mohammed Abd al-Mo'ti
5. Rabia Mohammed Nabah

Their counsel: Akram Khadr, Georges Salim, Nabil Batish, Antoine Kheirallah and Ibrahim Khayyateh

6. Mohammed Ali al-Saghir; his counsel Mohammed Michel al-Ghurayyeb
7. Jamil Ibrahim Hamoud; his counsel Nabil Batish
8. Mohammed Ali Abla; his counsel Mahmoud Makhayesh and Ahmad Makhayesh
9. Haytham Mohammed Hamad; his counsel Ahmad al-Sakakini
10. Maher Mohammed Hamad; his counsel Ahmad al-Sakakini
11. Bassam Ali Ismail; his counsel May al-Khansa
12. Tariq Ali Ismail; his counsel May al-Khansa
13. Mohammed Ahmad Ismail; his counsel Fayiz al-Ayali
14. Hani Subhi al-Othman; his counsel Akram Khadr
15. Mohammed Rashad al-Hawi; his counsel Mohammed Michel al-Ghurayyeb and Hassan Bayan
16. Mohammed Taha Baydoun; his counsel Mohammed Michel al-Ghurayyeb and Georges Charbel
17. Khadr Youssef Maqsoud; his counsel Georges Charbel

**Fugitives:**

1. Ahmad Abd al-Karim al-Sadi (Abu Mohjen)
2. Nasser Ahmad Ismail
3. Raed Mohammed al-Rifaii

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**On behalf of the Lebanese people**

The Judicial Council, composed of the First President of the Court of Cassation, Philippe Kheirallah, and Court of Cassation Presidents Hikmat Harmouch, Ahmad al-Moallem, Hussein Zein and Ralph Riyashi,

**Following scrutiny and deliberation,**

Having considered Decree No. 7693 of 22 December 1995 referring to the Judicial Council the case concerning the attack on internal state security that occurred on 31 August 1995 in the area of Tariq el-Jdideh, resulting in the assassination of Sheikh Nizar al-Halabi and entailing other consequences, and concerning all those who were involved therein as participants, inciters, accomplices or in any other capacity;

Having considered Decision No. 916 of the Minister of Justice of 22 December 1995 to appoint Abdullah al-Bitar as the Investigating Judge in the case,

Having considered the indictment decision issued by the Investigating Judge on 14 February 1996, the bill of indictment dated 19 February 1996 and the other documents pertaining to the case:

## **Chapter I**

### **Referral and procedures**

Whereas as a result of the investigation conducted on the basis of Application No. 4/1995 filed by the Public Prosecutor's Office at the Court of Cassation on 27 December 1995, the Investigating Judge issued an indictment on 14 February 1996 in which he brought charges against the following defendants:

1. Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, mother's name Kasinah, born in 1963, Palestinian, resident in Ain al-Helweh, arrested in absentia on 9 January 1996;
2. Khaled Mohammed Hamid, mother's name Amal, born in Al-Karkh, Iraq, in 1970, Lebanese, resident in Maamoun Street, Bourj Abi Haidar, Beirut, arrested on 29 December 1995;
3. Mounir Salih Aboud, also known as Alaa, mother's name Mutiaa, born in Beirut in 1970, resident in Sabra, opposite Dar al-Ajaza Hospital, Palestinian, arrested on 30 December 1995;
4. Ahmad Munthir al-Kasm, also known as Omar al-Shami, mother's name Fatima, born in Beirut in 1973, Lebanese, resident in the Abu Shakir district of Tariq el-Jdideh, arrested on 2 January 1996;
5. Wasim Mohammed Abd al-Mo'ti, also known as Abu al-Dardaa, mother's name Rasima, born in Beirut in 1975, Palestinian, resident in Fardan, arrested on 4 January 1996;
6. Rabih Mohammed Nabah, mother's name Subhiya, born in Al-Ghubayri in 1972, Lebanese, resident in the Taamir district of Sidon, arrested on 3 January 1996;
7. Mohammed Ali Mustafa al-Saghir, mother's name Majda, born in 1978, Lebanese, arrested on 5 January 1996;
8. Raed Mohammed al-Rifaii, mother's name Zohour, born in 1970, Palestinian, resident near Sports City, Al-Rasili district, Dar al-Ajzeh stop, arrested in absentia on 10 January 1996;
9. Khadr Youssef Maqsoud, mother's name Safiya, born in Al-Qubah, Tripoli, in 1972, Lebanese (recently naturalized), arrested in absentia on 10 January 1996;
10. Jamil Ibrahim Hamoud, mother's name Samira, born in 1968, Lebanese, arrested on 11 January 1996;
11. Mohammed Ali Abla, mother's name Najat, born in 1969, arrested on 15 January 1996;

12. Tariq Ali Ismail, mother's name Fatima, born in 1972, Palestinian, arrested on 15 January 1996;

13. Haytham Mohammed Hamad, mother's name Fathiya, born in 1966, Palestinian, arrested on 16 January 1996;

14. Maher Mohammed Hamad, mother's name Fathiya, born in 1965, Palestinian, arrested on 16 January 1996;

15. Mohammed Ahmad Ismail, mother's name Mariam, born in 1970, arrested on 16 January 1996;

16. Hani Subhi al-Othman, mother's name Rabiha, Lebanese, born in 1962, arrested on 16 January 1996;

17. Mohammed Taha Baydoun, mother's name Salma, born in Beirut in 1977, Lebanese, arrested on 18 January 1996;

18. Nasser Ahmad Ismail, mother's name Mariam, 35 years of age, Palestinian, resident of Nahr al-Bared camp, arrested in absentia on 17 January 1996;

19. Mohammed Rashad Ahmad al-Hawi, mother's name Daad, born in 1975 in Tripoli, also known as Abu Ishaq, Lebanese, arrested on 18 January 1996;

20. Bassam Ali Ismail, mother's name Fatima, born in 1977, Palestinian, arrested on 16 January 1996;

A. That Khaled Hamad, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Rabih Nabah participated in a criminal conspiracy leading to the assassination of the victim, Sheikh Nizar al-Halabi, and premeditated the assassination; that Mounir Aboud and Ahmad al-Kasm fired Kalashnikov assault rifles at the victim, who died instantly from a number of bullet wounds; that they also fired at the plaintiffs Ramadan al-Tabash, Nabil al-Dhaw and the victim's minor son, Bilal al-Halabi, who suffered extensive physical injuries of a critical nature, but whose lives were saved by factors beyond their control;

That the defendant Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, masterminded the assassination operation by organizing the criminal conspiracy, supervising the action of the participants and devising the plan for execution of the offence, recruiting and indoctrinating the accomplices, supplying them with firearms, communication equipment and transport, training them in their use and concealing the items once the assassination was executed;

That the defendant Khaled Hamid, who was involved in planning the offence and acted as commander of the group during the operation, drove the car carrying the perpetrators and remained on the alert with the firearm he was carrying in order to protect his two associates as

they fired at the victim, in addition to which he had a light anti-tank weapon beside him in the car to use if need be;

That the defendants Wasim Abd al-Mo'ti and Rabih Nabah assisted the perpetrators Aboud and Al-Kasm in activities that facilitated the commission and completion of the offence by providing protection with the weapons they were carrying and by directly assisting in the execution of the offence, having monitored the movements and habits of the victim to ascertain when he went out, covered the perpetrators while they were firing their weapons and secured their departure from the scene of the crime;

(Articles 549, 213, 257, 549 and 213/201 of the Criminal Code)

B. That the defendants Al-Saadi, Hamid, Aboud, Al-Kasm, Abd al-Mo'ti, Rabih Nabah, Khadr Maqsoud and Raed al-Rifaii variously premeditated, as described in the facts chapter of the indictment decision, three attempts to assassinate the victim Sheikh Nizar al-Halabi before achieving their aim, having first monitored his movements and followed him from the mosque to his home. For reasons beyond their control, the offence was not completed in the three attempts, although its execution was initiated through the preparation of the weapons and surveillance; (Articles 549/200 and 213 of the Criminal Code)

C. That the defendants Ahmad al-Saadi, leader of Osbat al-Ansar (League of Followers), Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti, Rabih Nabah, Mohammed Ali al-Saghir, Jamil Hamoud, Mohammed Abla, Mohammed Rashad al-Hawi, Mohammed Baydoun, Khadr Maqsoud, Raed al-Rifaii, Haytham and Maher Mohammed Hamad, Bassam Ali Ismail, Mohammed Ahmad Ismail, Hani Subhi al-Othman, Nasser Ahmad Ismail and Tariq Ali Ismail together formed an armed gang named Osbat al-Ansar with the aim of attacking state security, fuelling sectarian strife, inciting the Lebanese to take up arms against each other and urging them to engage in killing and subversion with a view to establishing an Islamic state in Lebanon and Greater Syria (*Bilad al-Sham*) headed by a caliph who applied the Islamic Sharia, and that they procured and possessed explosives and firearms in order to commit and facilitate acts of killing and subversion;

(Articles 4, 5 and 6 of the Act of 11 January 1958)

D. That the defendant Abu Mohjen, leader of Osbat al-Ansar, together with the defendants Haytham Mohammed Hamad, his brother Maher Hamad and Mohammed Ahmad Ismail, sought to attack and resist the armed forces operating against the perpetrators of the above-mentioned offences;

(Article 2 of the Act of 11 January 1958)

E. That the defendants possessed, carried, sold, purchased and used firearms. (Article 72 of the Weapons Act)

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On 19 February 1996, the Public Prosecutor's Office at the Court of Cassation charged the defendants under the articles set forth in the indictment decision and requested that they be brought to trial before the Judicial Council.

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The defendants Ahmad Abdul Karim al-Saadi (Abu Mohjen), Nasser Ahmad Ismail and Raed Mohammed al-Rifaii failed to appear before the Council, even though they had each been duly notified and granted a term of grace, of which they were also notified, together with its expiry date, in accordance with the rules laid down in Articles 335, 336 and 337 of the Code of Criminal Procedure. The Council therefore decided to treat them as fugitives from justice and to try them in absentia.

**Following the public trial** conducted in the presence of the remaining defendants,

Having read out the indictment decision, the list of witnesses and the records of the preliminary and preparatory investigations together with the other documents pertaining to the case;

Having questioned the defendants and listened to the witnesses' testimony;

Having heard the pleadings of counsel for the civil plaintiffs, the arguments of the Public Prosecutor's Office at the Court of Cassation, and the defendants who were present during the final stages of the proceedings;

And having taken cognizance of the written pleadings, which recapitulated the oral arguments, and of the application for a trial submitted by the defendants Hamid, Al-Kasm, Aboud, Abd al-Mo'ti and Nabah,

## **Chapter II**

### **Pleadings and applications**

#### **I. Individual plaintiffs**

Attorney Nasri al-Maalouf demanded that the defendants should be punished not only for homicide but also in order to abolish a school of thought that sought to distort our history and undermine our country's reputation and national coexistence.

Attorney Akari demanded that Hamid, Aboud and Al-Kasm should be convicted as perpetrators of the felony of intentional homicide and attempted homicide, that Rabih Nabah and Wasim Abd al-Mo'ti should be convicted of complicity, and that the remaining instigators and accessories should be convicted. He sought the maximum penalty, namely capital punishment, for them all.

Attorney Fadi Ghazwan argued that Rabih Nabah and Wasim Abd al-Mo'ti were accomplices to the perpetrated offence, as well as to the earlier attempts, and called for their conviction pursuant to Article 549 in conjunction with Article 213 of the Criminal Code for the perpetrated offence, and pursuant to Article 549.

Attorney Mohammed Maarouf Khalili, focusing on the defendant Ahmad al-Kasm, called for his conviction for the premeditated intentional homicide of Sheikh Nizar al-Halabi and for the attempted homicide of his bodyguards and son pursuant to Article 549 of the Criminal Code.

Attorney Naji al-Boustani, focusing on the defendant Khaled Hamid, demanded that the articles cited in the indictment should be applied to him.

With regard to compensation, the prosecution finally claimed 50 million Lebanese pounds for the plaintiff Ramadan al-Tabash and one Lebanese pound as token compensation for each of the other plaintiffs.

Attorney Ghassan Akari and Attorney Mohammed Khalili each submitted a written memorandum.

#### **II. The Public Prosecutor's Office at the Court of Cassation**

The Public Prosecutor at the Court of Cassation, Mr. Adnan Adoum, presented his pleadings, reviewing the facts as they appeared to him from the case file.

He presented details of the evidence in respect of the operation to kill Sheikh al-Halabi, listed 11 items of evidence, discussed the testimony of the defence witnesses and reviewed the applicable law.

With regard to the assassination of

and attempts to assassinate Sheikh Nizar al-Halabi, he argued that Ahmad Abd al-Karim Al-Saadi, also known as Abu Mohjen, had masterminded the operation to kill the Sheikh and that the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Rabih Nabah had participated in planning the offence and in executing the premeditated operation to assassinate Sheikh Nizar al-Halabi, also causing Ramadan al-Tabash, Nabil al-Dhaw and the victim's minor son, Bilal al-Halabi, to suffer extensive physical injuries of a critical nature.

Article 549 in conjunction with Article 213 of the Criminal Code was applicable to all the foregoing acts, and an aggravated penalty should be imposed on the defendants Ahmad Abd al-Karim al-Saadi and Khaled Hamid pursuant to Article 257 of the Criminal Code.

Articles 549, 213 and 201 were also applicable to the defendants in respect of the attempted homicide of Al-Tabash, Al-Dhaw and Bilal al-Halabi.

He also held that Al-Saadi, Hamid, Aboud, Al-Kasm, Abd al-Mo'ti, Nabah, Maqsoud and Al-Rifaii made three attempts to assassinate Sheikh al-Halabi, acts to which Articles 549, 213 and 200 of the Criminal Code were applicable.

He stated that there was solid evidence against those accused of the offence of undermining state security and forming an armed gang, acts to which Articles 2, 3, 4, 5, 6 and 7 of the Act of 11 January 1958 and Articles 201 and 203 of the Criminal Code were applicable.

With regard to the offence of attacking and resisting operational forces in the form of the Lebanese Army, which was dispersed around Ain al-Helweh camp with the aim of apprehending the defendant Ahmad al-Saadi, Article 204 of the Criminal Code and Article 3 of the Act of 11 January 1958 were applicable to that act, which was perpetrated by Ahmad al-Saadi, Haytham Mohammed Hamad, his brother Maher Hamad and Mohammed Ahmad Ismail.

With regard to the possession of weapons, Article 72 of the Weapons Act was applicable to the defendants concerned.

In conclusion, he sought the death penalty for the defendants Ahmad al-Saadi, Khaled Hamad, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Rabih Nabah, arguing that mitigating circumstances could not be granted by law. He also sought the maximum penalties for the other defendants.

### **III. The defendants**

#### **1. Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mu'ti, Rabih Nabah and Hani al-Othman**

The following is a summary of the statement made by counsel for the above persons, Attorney Khadr:

- With regard to the defence witnesses who had not been heard by the Council, neither the Council nor the President of the Council was entitled to refuse to call any of the named witnesses

to testify; moreover, neither of them had the right to include an application to hear those witnesses in the basic case file;

- With regard to the silence of the defendants before the Council, such silence during their questioning by the Council might have been on account of fear and their prison conditions, or it might have been attributable to the fact that they had enjoyed the honour associated with the killing of Al-Halabi and were afraid that, having accepted that honour during the preliminary investigations and interrogations, they would be divested of it before the Council and so maintained silence;

- With regard to their confessions during the preliminary investigations and interrogations, a confession to an act must be clear-cut and permanent to be considered sufficiently solid, so that if the defendant retracted his statement and confession, the confession lost its durability. The defendants' request to speak at the hearing of 27 November 1996 had deprived their confessions of their durability, so that they were now unconvincing and of no value;

- With regard to the facts, he had persuaded the defendants to break their silence and they had told him the truth, which he conveyed to the Council on their behalf, namely that:

- Because of the misguided practices of Al-Ahbash, their denunciation of Muslim clerics as unbelievers, their assault on houses of God, their encroachment on the office of the Grand Mufti and the accusations by some people that they killed clerics, and fearing that Al-Halabi would assume the office of Grand Mufti, the defendants thought they would kill him. His death was desired by all Muslims and by the United States intelligence service, which was interested in sowing dissension among Muslims;

- To achieve that objective, the defendants engaged in training and practised keeping watch over Al-Halabi, a fact to which they had confessed during the preliminary investigations and interrogations. Such exercises and rehearsals were in preparation for the killing, but they had found the operation too complicated and had changed their minds about killing Al-Halabi, as confirmed by the fact that the last rehearsal had taken place in April. This was what the defendants wished to state to the Council.

So why had they admitted to killing Al-Halabi during the interrogations and depicted the offence as something highly moral? There were various reasons, for instance the dream that they had relinquished but that had been made a reality by others, material and moral pressure from the law enforcement agencies, and the desire to keep the torch of zeal, which Al-Ahbash had sought to quench, burning in the hearts of young Muslims, even if they were to lose their lives and souls in the process.

As for the re-enactment of the crime, it involved details on which they had previously agreed during the exercises, to which the law enforcement agencies had added further details that they thought necessary to complete the crime.

It followed that the defendants had not killed Al-Halabi and had not been complicit in his homicide, as confirmed by the prosecution witnesses Imad Sabuh, Issam al-Sawwas, Ziyad

Khabbaz, Yahya al-Ghoul, Samir al-Homsi, Ziyad Akrah, Mohammed al-Shami and Khaled Andani, who had neither seen nor heard any sound of a motorcycle.

With regard to the number of armed persons and their firing position, the prosecution witnesses had stated that Al-Halabi had been shot by two gunmen advancing from a position opposite him who were standing as they fired.

The facts were clear from the witness statements and the report of the forensic physician, who had stated in his report and statement that a shot had hit the middle of the back from the right-hand side, which confirmed that the bullet was fired from behind by a gunman in an upright position.

The technical report by Syrian and Lebanese experts confirmed that there had been three gunmen.

It was clear from the bullet hole in the right-hand rear of the car that the bullet, which might have been of an exploding variety, had been fired from behind.

**Consequently**, the re-enactment of the crime was inconsistent with the actual killing, which confirmed that the defendants had no connection with the homicide of Al-Halabi.

As for the instigators, they were Al-Ahbash and Al-Halabi themselves. The perpetrators of the offence might have been members of a wing of the Association of Islamic Philanthropic Projects or of an intelligence group that knew about the drills for the killing of Al-Halabi and perpetrated the act in order to create a rift among Sunnis and have fundamentalists arrested.

Attorney Khadr concluded by seeking:

- Acquittal of the defendants;
- Invalidation of the preliminary investigations and interrogations;
- The summoning of all defence witnesses not heard by the Council to give testimony;
- Award of costs against the plaintiffs.

The other counsel, Attorney Georges Salim, reviewed the confession attributed to the defendants and stated that a confession based on invalid procedures was of necessity null and void.

Turning to the findings of the security squads and judicial authorities in the search conducted immediately after the assassination, the witness statements taken in the ensuing investigations, the re-enactment of the crime on 20 December 1995, the record of the crime, the diagrams and the location of the car and projectiles, he said that the re-enactment of the crime

was inaccurate and that there were contradictions between the statements of the defendants and between the witness statements.

He stated that all of the preliminary investigations and interrogations were invalid because:

- Army intelligence officers were not members of the judicial police, in accordance with Articles 12 and 13 of the Code of Criminal Procedure, and the investigations had therefore been conducted in breach of Articles 47 and 99 of the Code of Criminal Procedure;

- The investigations had been conducted within the Ministry of Defence and were flawed by intimidation, physical and moral coercion, fear and torture;

- The investigations by the investigating judge breached the provisions of Articles 70 and 71 of the Code of Criminal Procedure and were also invalid owing to fear, pressure and threats.

Attorney Salim then discussed the statements of witnesses Nabil al-Sheikh, Engineer Riyan Eid, Zakariya Ghalayini and Samir al-Hashimi.

He reviewed the articles pursuant to which the defendants had been arraigned, i.e. Articles 2, 3, 4, 5 and 6 of the Act of 11 January 1958 and Articles 308 and 317 of the Criminal Code, and stated that the terms of those articles had not been met.

Attorney Salim concluded by seeking:

- Invalidation of the measures undertaken by intelligence officers, since it could not be argued that the indictment decision covered investigative flaws. That was permissible in the indictment decision when there was a record of the charges and a bill of indictment but not in the case of a decision pertaining solely to the investigation level;

- Inadmissibility of the statements extracted from the defendants by the investigating judge in view of the physical and mental torture to which they had been subjected at all stages of the investigation;

- Summoning of all compilers of the preliminary records, particularly those who mapped out the scene of the incident, those who conducted the search, Captain Mashmoushi, the preliminary investigator and others who had compiled records pertaining to the case; in addition, the summoning of Lieutenant Edmond Abbas and of the defence witnesses;

- Should the Council rule against those applications, he called for the acquittal of the five defendants of the offence of assassination owing to lack of evidence and the content of the case file, and their acquittal for the other offences with which they were charged.

## **2. Khadr Maqsoud**

The following is a summary of the statement by counsel for this defendant:

- The defendant had been drawn into the first attempt to assassinate Al-Halabi and had been overcome with fear and indecision on discovering the underlying intention;
- He had voluntarily declined to play any further part in the attempt to assassinate Al-Halabi;
- He had gone along for weapon training in the mountains of Akkar but without criminal intent;
- He had not been involved in planning the assault on Sheikh al-Halabi and had been unwilling to participate in any stage of the attempt;
- He bore no responsibility for the assassination attempt since the elements of the offence were absent and, in the event of his conviction, mitigating circumstances were applicable in his favour pursuant to Article 253 of the Criminal Code;
- He was innocent of the offence of forming an armed gang with the aim of undermining state security and fuelling sectarian strife.

Attorney Charbel concluded by calling for the acquittal of the defendant of the offence of complicity in the attempt to assassinate Sheikh al-Halabi, inasmuch as the absence of the elements of the offence gave rise to doubt, and, in the event of his conviction, for the granting of mitigating circumstances in his favour pursuant to Article 253 of the Criminal Code.

## **3. Bassam and Tariq Ismail**

The following is a summary of the statement by Attorney May al-Khansa, counsel for the two defendants:

- They had committed no offence and had played no part in a conspiracy, since their basic aim had been merely to seek the truth;
- Jihad was a duty incumbent on every Muslim;
- Bassam Ismail had had no weapons training, had never been to Ain al-Helweh and did not know where it was;
- He was illiterate and the papers found in his possession had been left with him for safekeeping by Mounir Aboud while his house was being decorated;
- The confessions made by Tariq Ismail during the investigation were false and the offence to which he had confessed was impossible because the associates whom he mentioned

had been in detention on that date. He denied knowing Abu Mohjen or having any knowledge of anything to do with subversion, explosions or anything harmful to the country, although he had admitted to having had weapons training with Fatah when he was 15 years old;

- There was no evidence of the offences attributed to him and the photographs on file had clearly been taken when he was young;
- He had left Lebanon for Germany on 14 November 1990 and returned on 28 March 1995;
- The two defendants had been subjected to torture;
- They had committed no offence and there was nothing on file to show that they had committed any of the offences with which they were charged;
- Nothing had been proven against Tariq other than the offence of carrying a weapon, visible in an old photograph, but that offence had been covered by a general amnesty.

She concluded by seeking:

- Invalidation of the records of the preliminary investigation and the records of the investigating judge because they were the product of physical and moral coercion;
- Recognition of the questioning before the Council as the true testimony;
- Acquittal of her clients because they had committed no offence and had no intention of committing an offence and because there was no evidence against them;
- Consequently, she called for the acquittal of her clients on grounds of doubt, and demanded that all statements made against them should be deemed to have been motivated by the aim of involving others, without substantiation, in a criminal charge.

#### **4. Mohammed Rashad Hawi**

The following is a summary of the statement made by Attorney Hassan Bayan, counsel for the defendant:

- Mohammed Rashad Hawi, who had been charged with undermining internal state security and forming an armed gang, was a pious elderly man;
- Because of his friendship with Ahmad al-Kasm and Khaled Hamid, he had agreed to provide religious instruction at an “educational camp” in the area of Oyoun al-Samak;
- The three weapons in his possession had been left with him for safekeeping when the car belonging to Khaled Hamid had broken down;

- The defendant's position with respect to Al-Ahbash was the same as that of the Office of the Grand Mufti;

- Although the defendant was associated with and guided by the Salafiyah, he was not a member of any Salafiyah organization or group;

- The defendant had not been involved in any armed gang, had not fomented either civil war or sectarian strife, had not incited anybody to engage in looting, killing or subversion, had not invaded any town or resisted any armed forces, had neither manufactured nor possessed explosive materials and had not engaged in terrorist activity;

- The jihad that he advocated was a pillar of religion and was not exclusive to any party. His concept of jihad was that of spiritual jihad, fund-raising for good Muslim causes and good works. He was against armed action, which he regarded as destructive of the Islamic call.

Invoking the law, he said that:

- The preliminary investigation and interrogation were invalid inasmuch as they breached Articles 99, 70 and 82 of the Code of Criminal Procedure;

- There was no incriminating evidence;

- The charges brought against the defendant under Articles 4, 5 and 6 of the Act of 11 January 1958 were not based on any material evidence, given that none of the acts referred to in the said articles had occurred.

He concluded by seeking:

- Invalidation of the preliminary investigation and interrogation;

- Acquittal of the defendant of the charges against him;

- It followed that the most generous mitigating circumstances should be granted in respect of the charges brought against him under Article 72 of the Weapons Act;

- It followed also that, if convicted, the most lenient prison sentence should be imposed.

## **5. Maher and Haytham Hamad**

Attorney Ahmad Sakakini, counsel for the two defendants, stated that:

- An act was not characterized as an offence unless it involved a material act to which the legal definition of an offence was applicable;

- None of the investigations or interrogations had produced any material or physical evidence that the two defendants had committed any of the acts with which they were charged;

- The attack referred to in Article 301 of the Act of 11 January 1958 did not constitute an offence unless it was associated with material acts.

He concluded by seeking the acquittal of the two defendants owing to lack of evidence and hence the existence of doubt.

#### **6. Mohammed Taha Baydoun**

The following is a summary of the statement made by Attorney Georges Charbel, counsel for the defendant Mohammed Taha Baydoun:

- The 19-year-old defendant was a modest young man who had been raised in a Muslim family and frequently attended prayers in a Beirut mosque, where he had made the acquaintance of other young men;

- Following the assassination of Sheikh al-Halabi, he had been arrested with a number of those young men and subjected to various kinds of psychological and physical pressure. He had nothing to do with the statements extracted from him, which he had refuted before the Council;

- He was innocent of the offence of forming an armed gang with the aim of undermining state security and fuelling sectarian strife, and there was nothing on file to prove that the defendant intended to commit such acts, so that the requirement of criminal intent had not been met.

He concluded by seeking acquittal of the defendant for the offences with which he was charged owing to lack of criminal intent and hence lack of sufficient evidence and the existence of doubt.

#### **7. Mohammed Ali Ahmad Abla**

The following is a summary of the statement made by Attorney Mahmoud Makhayesh, counsel for the defendant:

- The defendant was a devout young man. After a third visit to Abu Mohjen, he was unconvinced by his lessons and stopped attending them. He had joined a charitable religious society called the Society of the Islamic Union, to which his commitment had been restricted to one or two hours a week because he worked every day in a greengrocer's shop;

- His connection with the defendant Khaled Hamid was that they used to go together to see Sheikh Hassan Qatarji and to the Msaytbeh mosque. He had no intellectual or ideological affinity with Khaled, who had left weapons in his care for a few days. He had agreed out of friendship and timidity. He had made the acquaintance of Mounir Aboud at the mosque through Khaled;

- He had not undergone any security or combat training and was not a member of Osbat al-Ansar;

- The indictment decision had confirmed that the defendant was unaware of the source or purpose of the weapons;

- There was nothing on file to prove in law that the defendant had intended to join any gang, to attack anyone or to utter a single word about other religious denominations or creeds in order to fuel strife. Nor was there anything to prove that he ever said anything about killing, subversion or slaughter;

- The defendant had not been involved in any agreement or plan with the other defendants;

- The weapons exercise that had taken place three years earlier in a remote area of the north, in which the defendant had not participated, was not classified as a terrorist activity;

- He could not possibly be convicted of the felony with which he was charged because none of its elements existed and there was no evidence against him;

- With regard to weapons, the provisions of Article 72 of the Weapons Act must be applied in conjunction with Article 78, as amended, because the weapons had not been carried by the defendant and had not been in his possession but had been left with him for safekeeping.

He concluded by seeking acquittal of the defendant of the felony under Articles 4, 5 and 6 of the Act of 11 January 1958 for lack of evidence and his conviction under Article 72, in conjunction with Article 78, of the Weapons Act.

## **8. Jamil Hamud**

The following is a summary of the statement made by Attorney Nabil Batish, counsel for the defendant:

- The charge against him was for the category of offence defined in Articles 4, 5 and 6 of the Act of 11 January 1958 and Article 72 of the Weapons Act;

- He had had no previous connection with the person known as Abu Mohjen or with the victim Nizar al-Halabi and the facts attributed to him in the indictment decision were fabricated, false and based on no solid evidence;

- The preliminary questioning of the defendant at the Ministry of Defence had been contrary to Articles 12 and 13 of the Code of Criminal Procedure in that army intelligence officers were not members of the judicial police; it was also in breach of Articles 47 and 99, since an investigating judge had been appointed to the case; it was furthermore vitiated by intimidation, physical and moral coercion, fear and torture; and it had been conducted within the premises of the Ministry of Defence;

- The interrogations had breached Articles 70 and 71 of the Code of Criminal Procedure;

- The elements of the offence were incomplete and there was no indication that the acts committed had been designed to achieve the purposes set forth in the articles cited in the indictment;

- The material and moral elements of the offence had not been met;

- There was no evidence that the group known as Osbat al-Ansar had sought to fuel sectarian strife, facilitate the invasion of towns, attack armed forces or commit a felony against the state;

- The incident in which the victim Al-Halabi had been assassinated had lasted no longer than three minutes. No explosive devices had been used, no alarm had been caused; moreover, Abu Mohjen's Osbat al-Ansar had not called for sectarian killing or incited acts of violence with a view to extending its authority over Lebanon and Syria and establishing an Islamic state.

He concluded by seeking invalidation of the preliminary investigations and interrogations and acquittal of the defendant.

**9. Mohammed Ali Moustafa al-Saghir, Mohammed Rashad al-Hawi and Mohammed Taha Baydoun**

The following is a summary of the statement made by Attorney Mohammed Michel Al-Ghurayyeb, counsel for the defendants:

- As the homicide of Sheikh al-Halabi was a single incident, its referral to the Judicial Council was unlawful and the Council must be held to lack jurisdiction;

- The Council must also be held to lack jurisdiction with respect to Mohammed Ali al-Saghir, who was a minor;

- His clients were innocent of the charges against them;

- They were not members of Osbat al-Ansar;

- Mohammed Rashad al-Hawi was a turbaned religious sheikh commissioned to perform his religious functions by the Tripoli Department of Religious Endowments;

- Mohammed Ali al-Saghir had had no knowledge whatsoever of the preparations to kill Sheikh Nizar al-Halabi;

- The mental offence element had been refuted;

- The weapons training had been nothing more than a sport and pastime;
- The members of Al-Ahbash committed abuses and the defendants were victims of internal sectarian unrest;
- There was no evidence that the defendants had committed any of the offences defined in the articles of the Act of 11 January 1958.

He concluded by seeking the acquittal of his clients and an award of costs against the plaintiffs.

#### **10. Final statements of the defendants**

The defendants were given the final word and requested:

- Khaled Hamid: acquittal and to be given the opportunity to speak again;
- Mounir Aboud: acquittal; he stated that he had no connection with Abu Mohjen or with Osbat al-Ansar;
- Ahmad al-Kasm: acquittal;
- Wasim Abd al-Mo'ti: acquittal and the elimination of Al-Ahbash to prevent future problems;
- Rabih Nabah: acquittal for himself and his brothers;
- Mohammed Ali al-Saghir: acquittal;
- Jamil Hamoud: acquittal for himself and all of his brothers, and their rehabilitation;
- Mohammed Ali Abla: acquittal;
- Haytham Hamad: acquittal;
- Bassam Ismail: acquittal;
- Mohammed Ismail: acquittal, not out of compassion but to achieve justice and to eradicate injustice;
- Hani Al-Othman: acquittal;
- Tariq Ismail: acquittal for himself and his brothers;
- Mohammed Rashad al-Hawi: acquittal for himself and his brothers;

- Mohammed Taha Baydoun: acquittal for himself and the other young men;
- Maher Hamad: acquittal;
- Khadr Maqsood: acquittal for himself and his brothers.

**11.** After the trial, Khaled Hamid and his associates stated the following with regard to the application to open the trial, submitted on 20 December 1996 by their counsel, Attorney Khadr and Attorney Salim:

- On 19 December 1995, photographs of those accused of assassinating Sheikh al-Halabi had been shown on television, as a result of which the witnesses Al-Khabbaz and Al-Sawwas had recognized the defendant Aboud. A friend of the victim, Samir al-Hass, had been brought in as a witness to identify Aboud, even though he had not testified during the investigation;

- An error had been made in the date of re-enactment of the crime between 20 and 21 December 1995 and in the location of the car;

- There was a witness who asserted that the defendant Ahmad al-Kasm had not been in Beirut at all on the morning of 21 August 1995. He would be named when leave for him to testify was given.

They concluded by seeking to open the trial; the drafting of a memorandum to Lebanese television to establish that photographs of the defendants had been shown on television on the evening of 19 December 1995; correction of the error in the record of the Government Commissioner; the summoning of law-enforcement officers already called in order to make statements on purely technical matters; an arrangement for the Council to inspect the scene of the crime; the summoning of all those named in the list of defence witnesses; and leave for the defendant Ahmad al-Kasm to be called as a witness.

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## **Chapter III**

### **Pleas and issues raised**

#### **I. Jurisdiction**

Whereas the Council ruled on this matter in its decision of 22 May 1996, which is final, there are no grounds for a review of its ruling to reject the plea raised.

#### **II. Application for invalidation of the investigations**

Whereas the Council is not the highest authority with respect to decisions of the investigating judge and the investigative procedures that led to such decisions, it may not review the soundness of the procedures with a view to declaring them invalid.

Whereas, on the assumption that the preliminary investigations might have been flawed, the investigating judge to whom the case was assigned reviewed all of the investigations and dealt with any flaws in the earlier investigations.

The indictment decision issued as a result of his investigations, which is final, also addresses such flaws and any flaws in his investigations.

Furthermore, whereas proof in criminal cases may be freely sought by all available means, the Council is free and has full discretion to take into account any of the elements of the case and to rely on those which it deems to be admissible and convincing in the light of the circumstances and the facts they bring to light.

This Council therefore proceeded in accordance with its previous decisions, especially the following decisions taken in recent years:

- Decision of 12 April 1994 in the case of the homicide of the Antonios brothers in Baabda;
- Decision of 19 December 1994 in the case of the homicide of Naeb Omran al-Moayeteh;
- Decision of 24 June 1995 in the case of the homicide of Dany Chamoun and members of his family;
- Preliminary decision of 17 December 1995;
- Final decision of 13 July 1996 in the case of the bombing of the Church of Our Lady of Deliverance in Zouk.

Whereas the application for invalidation of the preliminary investigations and interrogations is inadmissible.

### **III. Application for the summoning of all defence witnesses**

Whereas the defence submitted a list of persons whose testimony it sought to have heard, including the Grand Mufti of the Republic, Sheikh Qabbani, and a number of other religious elders;

Whereas the Council decided, at the hearing of 11 October 1996, to request the defence to state the facts concerning which it wished to question the witnesses. The response of the defence at the hearing of 18 October 1996 was to seek a reversal of that decision. It submitted a memorandum to that effect, arguing that the requirement laid down in the decision was contrary to the Code of Criminal Procedure, which contained no provision requiring specification of the subject matter to be ascertained through witnesses, and that the mere naming of witnesses made it incumbent on the Council to call them. However, the Council could decide not to ask witnesses to respond to a question raised by the defence if it was immaterial to the facts of the case;

Whereas the Presidency of the Council set dates for the appearance of most of the witnesses, including Sheikh Lababidi and Sheikh al-Qatirji, both of whom were duly served with summonses. However, they failed to appear and wrote to the Council that they should be called as witnesses through the Office of the Grand Mufti by means of a different document from the summons served;

The defence (at the hearing of 6 November 1996), after withdrawing the application to call Sheikh Qabbani, insisted on its application to call all of the remaining witnesses. Attorney al-Ghurayyeb, counsel for some of the defendants, stated that religious elders should be called through the Office of the Grand Mufti. The Public Prosecutor responded that the law specified the persons who benefited from special rules when being called to testify (Articles 402 to 405 of the Code of Criminal Procedure) and that they did not include religious scholars and clerics, who were subject to the general rules. Moreover, it was for the Council to decide whether to summon witnesses in accordance with the rules or whether to refrain from summoning them;

Whereas the Council decided at that hearing to include all issues raised in connection with witnesses in the case file;

Whereas it is an established rule that defendants are entitled to submit evidence in the form of personal testimony demonstrating their innocence or grounds of excuse constituting exculpatory or mitigating circumstances;

Whereas it is also an established rule that the Council, which sets the trial proceedings in motion and endeavours to keep them within their proper bounds, may ascertain the merit of procedures requested by the parties and their relevance to the case when it has doubts and questions regarding their relevance and merit;

Whereas to do otherwise would ultimately place trial proceedings under the control of the parties and confine the Council's authority to directing the proceedings in the interests of arriving at the truth;

Whereas, on that basis, the Council decided to request the defence to specify the matters that it sought to prove through the witnesses it had named since it had reservations regarding the merit of calling some of them, and it also decided, after the defence failed to respond to its request, to include in the case file all matters raised in connection with witnesses in order to increase the likelihood, when considering the merits of the case, of identifying the potential merit of summoning witnesses who had not been called;

Whereas the latter process is facilitated once the detailed facts of the case have been ascertained and substantiating evidence has been presented and discussed. The question arises at that point whether there are still grounds for further investigation and whether there is any merit in hearing witnesses who have not yet been heard after considering the conceivable subject matter of their statements;

Whereas the defence arguments against the foregoing were irrelevant and deserved to be dismissed.

## **Chapter IV**

### **Facts of the case**

On 31 August 1995, at approximately 9.15 a.m., Sheikh Nizar al-Halabi, President of the Association of Islamic Philanthropic Projects, left his apartment in the building where he lived in the neighbourhood of Tariq el-Jdideh. Accompanied by his son Bilal, he went to his car which was parked outside, and had barely got into the right-hand front seat when he was sprayed with fire from assault rifles and shot in several parts of his body. His son Bilal al-Halabi, who was sitting in the back seat of the car, was also injured, as were his two bodyguards, Ramadan al-Tabash and Nabil al-Dhaw, who were present at the scene. They were all taken to hospital. Sheikh Nizar al-Halabi was dead on arrival and his son Bilal and the two bodyguards Al-Tabash and Al-Dhaw received treatment and life-saving surgery.

The post mortem examination of the victim Sheikh Nizar al-Halabi and an examination of the injured by forensic physician Dr. Walid Shaqir indicated that the Sheikh had been shot no fewer than 25 times with bullets from two 7.62-mm weapons fired from a distance of over one metre. He had suffered injuries to his head and ribcage and to the upper right-hand side of his body and had died instantly as a result of the head injury, which had shattered his skull and lacerated the brain tissue.

Twelve-year-old Bilal al-Halabi was injured on the left-hand side of his forehead and suffered bruising in the area of his left eye. His right leg was paralysed due to a cerebral haemorrhage and his vision was impaired by haemorrhaging in the eye. He was consequently incapacitated for two months and received physiotherapy for his leg.

Nabil al-Dhaw was injured behind his right ear and pieces of shrapnel were lodged in the vessels, arteries and nerves on the right-hand side of his neck. They could not be removed because it was too dangerous to operate. He was incapacitated for 10 days. Ramadan al-Tabash received three bullet wounds: one in the ribcage, which tore his right lung and liver, a second in the upper right arm and a third in the upper thigh. He was incapacitated for three months and was later declared permanently incapacitated.

In examining the scene of the incident, the Tariq el-Jdideh squad found approximately 54 casings from a 7.62-mm Kalashnikov assault rifle. Bullet traces were also visible on the first- and second-floor facades of the building where Sheikh al-Halabi lived. The rear window of the victim's car was shattered and the front window was damaged, as were many other parts of the car. The technical report compiled by crime experts in Syria also showed that the 54 empty cartridges had been discharged from a 7.62-mm Kalashnikov rifle and that three rifles of the same calibre had been fired.

Witnesses who were in the area at the time of the incident testified during the preliminary investigations that immediately followed. The witness Fadi Nour al-Din al-Sardouk stated that, between 8.30 and 9 a.m., he had seen a white Mercedes car parked facing Al-Boustani Street, where Sheikh Nizar al-Halabi's house was located. The car had its engine running and its windows closed, but nothing was visible through the glass because it was tinted and because a

piece of cardboard had been placed on the inside of the front windscreen. In his testimony, the witness Ali al-Noumani stated that he had seen the same car approaching on al-Boustani Street at approximately 9.15 a.m. on 31 August 1995. It had stopped about two metres away from the car belonging to Sheikh Nizar al-Halabi, which was parked on the pavement, facing the street on the left-hand side, and had been followed by a motorcycle with two riders that had stopped about five metres in front of Sheikh al-Halabi's car. Two masked men had got out of the car, each with a long beard protruding from under the mask. The first had been sitting in the front right-hand seat of the car and the second in the back seat on the same side. The driver had remained in the car. The masked men, each carrying a Kalashnikov assault rifle, had approached the car belonging to Sheikh al-Halabi, who was in the front right-hand seat, and begun shooting at it with their rifles, focusing their aim on Sheikh al-Halabi himself. Meanwhile, the man riding pillion on the motorcycle had dismounted and taken off his shirt which concealed a Kalashnikov assault rifle. He had proceeded to the right-hand side of the road, where he had stood by a tree and begun shooting at the wall of the building to prevent the guards from firing at his associates. After the shooting stopped, the first two gunmen had got into the Mercedes car, the third gunman had got back on the motorcycle and they had all fled.

The witness Yahya Zakariya al-Ghoul stated that he had seen two gunmen firing towards the car belonging to Sheikh al-Halabi, who was inside, and that the Mercedes had been parked in the middle of the road opposite the Sheikh's car in order to block its path. One of the gunmen had put a white band on his face. The witness Khaled Adnani stated that the driver of the Mercedes had been standing by the car on the inside of the driver's door and had fired a Kalashnikov assault rifle at the Sheikh's car. He also stated that he had seen one of the gunmen putting a white band on his face. The witness Ziyad Akrah stated that when he arrived at the junction of Al-Boustani Street, a large red "Cross" motorcycle had suddenly appeared with two people on it, one carrying an assault rifle. The motorcycle had then deliberately blocked the road to make way for a white Mercedes with three people inside it. The witness Ziyad Sabuh stated that he had been in his shop near Sheikh al-Halabi's home when he heard the whistling of bullets and dived flat on the ground. When the firing stopped, he had stood up to find out what was happening and seen a large red "Cross" motorcycle carrying a masked rider with his eyes fixed on the traffic and another masked rider, armed with a Kalashnikov rifle, looking towards Sheikh Nizar al-Halabi's car. As the latter started firing at his shop, he had again lain flat on the ground, still watching the gunman riding behind the driver of the motorcycle, which had quickly pulled off towards the traffic.

In his testimony, Mohammed, Sheikh Nizar al-Halabi's son, stated that on the day of the incident he had been standing near his father's car when he saw a Mercedes parked in the middle of the road facing his father's car, with two people nearby, both carrying assault rifles. He had also seen a motorcycle with one rider whom he was unable to make out, as well as a fourth gunman who had been blocking the road to vehicles by firing into the air. The two gunmen near his father's car had begun firing a hail of bullets at the car and towards his father. Ramadan al-Tabash had attempted to turn his pistol on the gunmen, but was hit by gunfire from one of the men and fell injured to the ground. The gunman blocking the road had joined the other two in firing on the car and then got onto the motorcycle behind the driver. The other two had also got into the Mercedes and all of them had fled.

The witnesses Mohammed al-Shumaytali, Omar al-Shami and Imad Sabuh in turn stated that they had seen the Mercedes and the two armed men who had got out of it and shot at Sheikh Nizar al-Halabi, his son Bilal and his bodyguard Ramadan al-Tabash.

Requests for legal assistance were drawn up for the law enforcement authorities to search for those responsible for the assassination of Sheikh Nizar al-Halabi. There was no immediate positive outcome until 2 December 1995, when an accident occurred between two cars in the Abu Samra neighbourhood of Tripoli. One of the two cars was driven by a man called Said al-Shihal, who was admitted to hospital for fractures. His car was impounded and searched by the Internal Security Forces, who found rocket missiles in the boot.

On being questioned, he confessed that he and Fouad al-Zayni had bought the missiles from the Palestinian camp in Nahr al-Bared and that the two of them had planned to use them in assassinating Hajj Taha Naji. He also confessed to planning the assassination of the Mufti of Tripoli, Sheikh Taha al-Sabunji, and of Al-Ahbash officials Sheikh Nizar al-Halabi and Taha Naji on account of Al-Ahbash's failure to apply Sharia law, and to being involved in planning to blow up shops and businesses selling alcohol owing to their pursuit of activities forbidden under Sharia law.

The questioning of Al-Shihal and those named in his statement provided the law enforcement agencies with information about Fouad al-Zayni's relationship with one of the defendants in the present case, Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, whose organization Osbat al-Ansar has its headquarters in Ain al-Helweh camp. Well known for its extremist fundamentalist activities in Lebanon, this organization is composed of cells tasked with gathering information about Abu Mohjen's political and civil opponents in order to harm them as and when necessary. One of the most prominent of these opponents was Sheikh Nizar al-Halabi, President of the Association of Islamic Philanthropic Projects (Al-Ahbash), owing to the ideological differences between him and Abu Mohjen, whom he regarded as spearheading the Wahhabi line against Al-Ahbash. Information was also obtained on various members of these cells, who were summoned by judicial writ. When their statements were heard by the investigating judge during the preliminary investigations and interrogations and finally before this Council, it came to light that the defendants Khaled Hamid and Mounir Aboud had made the acquaintance, through Bilal Abu Alfah who later died, of Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, a Palestinian national and head of the Osbat al-Ansar organization founded by Sheikh Hisham al-Shuraydi before he was killed. The purpose of this acquaintance was to learn about Abu Mohjen's activities in connection with the Islamic call and Islamic jihad and to exchange views on religion and the Sharia. Khaled Hamid and Mounir Aboud admired Abu Mohjen and began visiting him regularly after deciding to commit themselves to the cause of Osbat al-Ansar. Having asked Abu Mohjen to send him for security and military training, Khaled Hamid was given an instructor named Abu Omar, chosen by Abu Mohjen, who proceeded to instruct him in security science and in surveillance, information-gathering, reconnaissance, target observation and the use of firearms. He then received more extensive training from another instructor known as Abu Mohammed.

During his relationship with Khaled Hamid, Abu Mohjen would talk to him about the assassination and physical elimination of leaders of movements that he saw as opponents of his

own movement, including Al-Ahbash, to which he was hostile, since he believed that it had deviated from the precepts of Islam. Abu Mohjen devoted assiduous efforts to stoking the fire of resentment in Khaled Hamid so that he would join in operations to assassinate such people.

In early 1995, as part of his grooming of Khaled Hamid and Mounir Aboud, Abu Mohjen raised the subject of doing away with Sheikh Nizar al-Halabi, president of the Association of Islamic Philanthropic Projects (Al-Ahbash), an objective that for him was a serious matter requiring work and planning. His charge was that Sheikh al-Halabi perverted the verses of the Quran and incited Muslims. It was at this point that Khaled Hamid became interested in the idea of watching Sheikh al-Halabi and gathering information on his movements, his bodyguards and the area surrounding his home. Mounir Aboud also began watching Sheikh Nizar al-Halabi's house, his route to the Association's headquarters and the mosque which he frequented in Bourj Abi Haydar. Khaled Hamid realized that a number of men would be needed to carry out the assassination owing to the security arrangements in place for Sheikh al-Halabi as he went about his business. He pointed this out to Abu Mohjen, then studied the assassination operation with Mounir Aboud and mooted the possibility with the defendant Ahmad al-Kasm, also known as Umar al-Shami, whom he knew and trusted because of his leanings, his hostility to Al-Ahbash and his fighting experience. Ahmad al-Kasm approved the idea and went with Khaled Hamid to meet Abu Mohjen. Khaled was surprised to learn that Abu Mohjen had already known Ahmad al-Kasm for a long time, something of which he had been unaware. Al-Kasm had got to know Abu Mohjen earlier through a friend of his called Malik Saoud and had taken lessons from him in religion and the Sharia. He also regarded himself as a supporter of Osbat al-Ansar, and Abu Mohjen therefore agreed to include Ahmad al-Kasm in the assassination operation.

The defendants Khaled Hamid, Mounir Aboud and Ahmad al-Kasm met to study the details of the plan to assassinate Sheikh Nizar al-Halabi. They decided that the operation should be carried out using two motorcycles and a car. The passengers on the motorcycles were to open fire on Sheikh Nizar al-Halabi's escort and the car was to serve as back-up. As additional men were needed to carry out the operation, Ahmad al-Kasm asked his friends, the defendants Raed al-Rifaii, Wasim Abu al-Mo'ti, also known as Abu al-Dardaa, and Rabih Nabah, also known as Abu Bakr, to take part in the assassination. They agreed and Wasim Abd al-Mo'ti organized a motorcycle and Khaled Hamid another, while Raed al-Rifaii secured a Mercedes car and Ahmad al-Kasm procured a Kalashnikov assault rifle. Rabih al-Rifaii had a Skorpion machine pistol; Khaled Hamid had a Tokarev pistol, together with a hand-held communication device provided by Abu Mohjen; Wasim Abd al-Mo'ti had a Star pistol and a communication device; and Abu Mohjen had another device. The various pieces of equipment were therefore in place for the assassination, which was to be carried out in April 1995.

Meanwhile, Khaled Hamid had assigned the defendant Mohammed Ali al-Saghir to keep watch on the Bourj Abi Haydar mosque and inform him of the movements of Sheikh Nizar al-Halabi and his bodyguards and the times he entered, remained in and left the mosque. Mohammed Ali al-Saghir knew Khaled Hamid and Mounir Aboud from their attendance at the mosque in the area of Al-Msaytbeh. Accompanied by Mounir Aboud, Mohammed Ali al-Saghir went on several occasions to meet Abu Mohjen, who assigned one of his aides, known as Abu Tariq, to teach him about faith and adherence to the Islamic religion. Carrying out Khaled Hamid's request for him to watch the Bourj Abi Haydar mosque, Mohammed Ali al-Saghir went

after evening prayers to the roof of a neighbouring building where he could keep an eye on it. After staying there for about an hour and a half without seeing Sheikh Nizar al-Halabi or any members of his escort, he reported back to Khaled Hamid, who arranged to meet him in Al-Msaytbeh mosque, where he gave him a radio and taught him how to use it so that he could call him when he saw Sheikh Nizar al-Halabi. He also gave him a pair of binoculars to facilitate his task. Mohammed Ali al-Saghir then went up onto the roof of the same building and trained the binoculars on the mosque, waiting for Sheikh Nizar al-Halabi to arrive, but he did not see him. During this time he was in radio contact with Khaled Hamid, who asked him to stop watching and leave. Two or three days later, Hamid asked Mohammed Ali al-Saghir to watch the mosque again, which he did by sitting on the balcony of the house of one of his friends in the neighbourhood, but he did not manage to see Sheikh Nizar al-Halabi. He then abandoned the task and returned the radio and binoculars to Khaled Hamid.

At the appointed time, the men assigned to carry out the assassination plan went to the Bourj Abi Haydar area to ambush and kill Sheikh Nizar al-Halabi as he left the mosque. Raed al-Rifaii was there in a Mercedes car, which he was driving, and he had Rabih Nabah with him, while Khaled Hamid was on a motorcycle with Ahmad al-Kasm, and Wasim Abu al-Mo'ti and Mounir Aboud were on a second motorcycle. The plan was for the Mercedes to block the road to Sheikh al-Halabi's car so that he could be attacked and killed by the men on the motorcycles. They waited for about half an hour between 7 and 7.30 p.m., but Sheikh Nizar al-Halabi failed to appear and the movements of the accused had aroused suspicion among his followers who were at the scene and had begun harassing them. Khaled Hamid therefore decided to halt the operation and called his associates via the radio he had with him. He asked them to leave and attempted to ward off despair on their part by persuading them that it had simply been a training exercise.

Approximately one week later, Khaled Hamid went to tell Abu Mohjen what had happened. Hardening his resolve, Abu Mohjen offered encouragement to Khaled Hamid and asked him to persist with the attempt. Khaled Hamid, Mounir Aboud, Ahmad al-Kasm and Raed al-Rifaii then went to Tripoli, where the defendant Khadr Maqsoud's house was located. Maqsoud was known to Mounir Aboud and the view was that he should replace Rabih Nabah in carrying out the assassination plan. They therefore took Khadr Maqsoud to a remote area of Akkar known as Oyoun al-Samak, where they conducted firearms exercises, and then all returned, taking Khadr back to his house. Khaled Hamid asked him to meet them in Beirut the following day, explaining that they would be "making mincemeat" of Sheikh Nizar al-Halabi.

At the appointed time, the defendant Khadr Maqsoud went to the agreed rendezvous in Al-Salam mosque, where he met Khaled Hamid, Ahmad al-Kasm, Wasim Abd al-Mo'ti and also Mohammed Ali al-Saghir, who later disappeared. This was ten days after the first operation.

After leaving the mosque, they went to the house of someone called Yasser Saoud, where Khaled Hamid radioed someone, immediately after which Khaled said to Wasim Abd al-Mo'ti: "He's apparently come out." Khadr Maqsoud understood him to be talking about Sheikh Nizar al-Halabi. Wasim Abd al-Mo'ti then picked up a pistol that was there and Maqsoud took an assault rifle with ammunition and concealed it under his shirt. Yasser Saoud stayed in the house with a radio. Khadr Maqsoud rode pillion on a motorcycle driven by Wasim, taking with him some black tape with which he camouflaged the motorcycle to prevent identification of the colour and

registration number. They then headed to the vicinity of the Bourj Abi Haydar mosque, where a white Mercedes car also appeared, driven by Raed al-Rifaii, who had Mounir Aboud, Khaled Hamid and Ahmad al-Kasm with him. Having seen a Kalashnikov rifle in the middle of the back seat, Khadr Maqsoud felt sure that it was to do with assassinating Sheikh Nizar al-Halabi, which was confirmed to him by Wasim Abd al-Mo'ti, who explained that Sheikh al-Halabi would emerge from the mosque and that they would follow him on the motorcycle, while those in the car would fire at him. In the event that they met with resistance from the men in his escort, they – in other words, Wasim and Khadr – would secure their protection by opening fire. Wasim Abd al-Mo'ti had a radio with him on the motorcycle through which he received instructions and he learned from one person who radioed him that Sheikh Nizar al-Halabi had taken a route other than the one where they were lying in wait for him. The second operation was therefore halted at that point and the job cancelled.

Khaled Hamid immediately went to Abu Mohjen and returned the Tokarev pistol and radio that he had given him. He gave him a detailed report on the two operations and Abu Mohjen again hardened his resolve, attributing the failure to poor surveillance. Khaled Hamid, Mounir Aboud and Ahmad al-Kasm therefore met to consider the matter further and decided to step up surveillance and make it more meticulous. Khaled Hamid assumed the task of watching Sheikh Nizar al-Halabi's house, car and escort, while Ahmad al-Kasm took over surveillance of the Sheikh's night-time movements and Mounir Aboud of his morning movements. After managing to gather sufficient information on that score, Khaled Hamid went to inform Abu Mohjen of the outcome and prepared a report for him that included a request for the weapons, means of communication and car that would be needed to carry out the operation. Abu Mohjen agreed with him about the items and equipment and promised that he would secure them at the time. Ten days after this meeting, Abu Mohjen informed Khaled Hamid that he would be able to meet the request and called him to his headquarters at Ain al-Helweh camp. Abu Mohjen then told him of his final decision to carry out the operation and said that the car he had asked for was parked in the Taamir area and that it was a white Mercedes with a public licence plate. Khaled Hamid then went to the place where the car was parked. Abu Mohjen had given him the keys and he opened the boot, which had a case inside containing weapons and two radios. Khaled placed the weapons strategically under the seats to prevent them from being discovered as he was travelling about in the car. The weapons were two Kalashnikov rifles, two magazines, a 9-mm assault rifle, a pistol and some ammunition. He then took the car to Beirut. En route, Khaled deliberately picked up a soldier, who was unknown to him, so that he could cross the army checkpoint at Awali river without being searched, which is what happened. After dropping off the passenger in Damour, he continued on to Beirut, where he parked the car near Salim Salam bridge in the Msaytbeh area and made his way home.

The following day, Tuesday 29 August 1995, Khaled moved the car to near the entrance of the Mar Elias camp and went to meet Mounir Aboud to tell him about Abu Mohjen's decision that the operation should go ahead and to give him instructions. In accordance with the agreed plan, the rendezvous for carrying out the operation was set for Wednesday at about 7 p.m. near Mar Severus church in Al-Msaytbeh, where Mounir Aboud had parked the car after testing it, and Khaled Hamid informed his other associates in the operation accordingly.

At the appointed time, they all met near the church and divided up the weapons among themselves. Mounir Aboud and Ahmad al-Kasm each took a Kalashnikov assault rifle, while Khaled Hamid took a small automatic rifle and a pistol. All of these weapons had been inside the car when it was conveyed from Abu Mohjen's. Wasim Abd al-Mo'ti had brought along a pistol provided by Ahmad al-Kasm, his motorcycle, which had been used in the previous ambushes, and his own radio. Rabih Nabah had a pistol and a Skorpion machine pistol, both obtained from Ahmad al-Kasm. The two radios belonging to Abu Mohjen remained inside the Mercedes, with one of them switched on to permit communication between the car passengers and the motorcycle riders.

After fully equipping themselves as described, they all went to Sheikh Nizar al-Halabi's house. It was evening and they waited near his house for approximately half an hour, but he neither entered nor left the house. They then realized that the escort motorcycle for Sheikh al-Halabi had left and concluded that he would not be leaving the house that evening. Khaled Hamid then parked the Mercedes some 35 metres opposite Sheikh al-Halabi's house after it had been agreed to leave it there, with the weapons inside, and to return in the morning when Sheikh Nizar al-Halabi would leave the house for his office at the Association of Islamic Philanthropic Projects in the Bourj Abi Haydar area. Khaled Hamid concealed the weapons under the back seat of the car and they all went home.

The following day, Thursday, 31 August 1995, at approximately 8.30 a.m., they all went to a juice shop located in the same street as Sheikh al-Halabi's house, which was where the car was parked, and confirmed their final resolve to execute the plan without another thought. Rabih Nabah then mounted the motorcycle behind Wasim Abu al-Mo'ti, who was driving. Their faces were both hidden by motorcycle helmets and Wasim had a radio, for which he was wearing an earpiece, and a small transmitter to enable him to communicate with those in the car. Khaled Hamid was driving the Mercedes, with Mounir Aboud next to him in the front right-hand passenger seat and Ahmad al-Kasm in the back seat on the right. They wore women's stockings over their faces to mask their features, but Mounir Aboud found the stocking irritating and so went into a nearby pharmacy to buy a cotton bandage to put around his eyes to prevent his face from being recognized. This disguise was put on inside the car. Khaled Hamid had turned on the engine to warm it up and was watching the entrance to Sheikh al-Halabi's house through a small hole in a piece of cardboard on the front windscreen, which was normally used as protection against the sun's rays but had been put there to prevent passersby from seeing the passengers in the car, which had tinted glass for the same reason.

As the time approached 9.15 a.m., Sheikh Nizar al-Halabi came out of the building where he lived, accompanied by a number of his minders, and got into the front right-hand seat of his car, which was parked on the pavement at the entrance facing the road. As soon as Khaled Hamid saw him, he removed the cardboard from the car windscreen. Wasim Abd al-Mo'ti spoke to him by radio to alert him to the Sheikh's exit and Khaled Hamid ordered him to stay where he was and keep watch. Khaled then started gently moving the car so as not to attract attention and Mounir Aboud and Ahmad al-Kasm both prepared their weapons. After 10 metres, a car came along a fork in the road, almost blocking Khaled's path. He flashed his headlights for it to make way for him to pass and it reversed and stopped. Khaled drove into the road leading to Sheikh al-Halabi's house, headed towards his car and stopped alongside it, one and half metres away, to

prevent it from moving off and to enable Mounir Aboud and Ahmad al-Kasm to get out of the car unimpeded. Mounir Aboud then got out of the front door on the right-hand side and Ahmad al-Kasm got out of the rear door on the same side. They drew their weapons and showered Sheikh Nizar al-Halabi with a hail of bullets, injuring both him and his son Bilal, as well as his bodyguards Nabil al-Dhaw and Ramadan al-Batash, as previously described. Meanwhile, Khaled Hamid, weapon in hand, was keeping watch on the movements of Sheikh al-Halabi's bodyguards to prevent them from getting in the way of his two associates, and Wasim Abd al-Mo'ti and Rabih Nabah did the same. After making sure that Sheikh al-Halabi had been hit, the perpetrators Mounir Aboud and Ahmad al-Kasm rushed back into the Mercedes, which was driven off by Khaled Hamid. Rabih Nabah got onto the motorcycle behind Wasim Abd al-Mo'ti and the two disappeared on it. The Mercedes headed towards Al-Awzai Road and communication was severed between its passengers and the motorcycle riders. From there, Khaled Hamid, Mounir Aboud and Ahmad al-Kasm headed south towards Sidon, taking a number of measures along the way to cover their tracks and to avoid arousing suspicion.

These measures included: removing their masks; acting normally; buying a Lebanese flag and putting it on the back seat of the car to make it look as though they were part of the march calling for a strike on the anniversary of Musa al-Sadr's disappearance; and putting the weapons in a black bag in the car boot. Ahmad al-Kasm got out of the car at Wadi al-Zinah and took a taxi before returning to the original car after crossing the army checkpoint at the entrance to Sidon. The idea was to stop the men at the barrier from identifying the car in case the law enforcement agencies had circulated descriptions of the car used in the offence and information about the number of passengers.

When they reached the Tamir area of Sidon, near Ain al-Hilweh, they parked the car and went to Abu Mohjen. They told him of the outcome and about the killing of Sheikh Nizar al-Halabi and he gave them his blessings and congratulations. Khaled Hamid then returned to Beirut, followed shortly by Mounir Aboud. Ahmad al-Kasm stayed as Abu Mohjen's guest for a week before he in turn went back to Beirut. Wasim Abd al-Mo'ti and Rabih Nabah, after making sure that the operation had been successful, went to the Damour region, where Wasim Abd al-Mo'ti hid the weapons he had in his possession in a nylon bag. Rabih Nabah then left him and went home to Sidon and Wasim went home to Beirut, where he went to work.

Two days after the operation, Ahmad al-Kasm went to Rabih Nabah's house, recovered the weapons he had given him before the assassination and left them for safekeeping with Abu Mohjen, since he had purchased them from him earlier.

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On 21 December 1995, following the arrest of the defendants, who confessed to the details of what they had done, they were taken to the scene of the crime in which Sheikh Nizar al-Halabi was killed and demonstrated how the assassination had been executed. A record was compiled by the Government Commissioner for the military court and the factual evidence was filmed on videotape, which was included in the case file and shown at one of the Judicial Council trial hearings.

In view of the factual evidence adduced from the confessions of the defendants Hamid, Aboud, Al-Kasm, Al-Mo'ti and Nabah, their re-enactment of the crime and the forensic report, all of which indicated that the bullets that hit the victim, Sheikh Nizar al-Halabi, came from two rifles, and in view of the contradictory report on criminal evidence from Syria, the substance of which was that the empty cartridges found at the scene of the crime were discharged from three rifles of the same calibre, the investigating judge decided to commission a qualified military expert, Michel Farivar, to account for the contradiction. After testing six bullets from different sources fired from one assault rifle, he stated that one rifle could leave different indentations on the empty cartridges, depending on the metal and type of gunpowder used as ammunition.

With regard to the questioning of the defendants who were apprehended as a result of inquiries and information provided to the law enforcement agencies, the defendant Mohammed Ali al-Saghir stated during the preliminary investigation that he knew Abu Mohjen and had visited him several times, and that Abu Mohjen had told his aide Abu Tariq to provide him with instruction in Islam and had supported his role in the operation to monitor the movements of Sheikh Nizar al-Halabi at the request of Khaled Hamid, as stated earlier. He denied knowing the real reason for this surveillance and that it was intended to facilitate the assassination of Sheikh al-Halabi. He added that several months before the operation, he and Mounir Aboud had daubed obscene pictures on street walls and advertisements, using black paint and bronze-coloured oil, for which they had been periodically arrested by the law enforcement agencies and then released.

The defendant Jamil Ibrahim Mahmoud also confessed during the preliminary investigation that he knew Abu Mohjen through his friend Ahmad al-Kasm, who was a member of Oibat al-Ansar; that he had met Abu Mohjen and that they had spoken together about Islam and jihad; and that Abu Mohjen had asked him to teach him modern terminology. For his part, Jamil had asked Abu Mohjen to train him in fighting and the use of weapons, as a result of which Abu Mohjen had arranged for "Abu Moujahed" to teach him how to use light anti-tank weapons and handguns. He denied being a member of Oibat al-Ansar.

The defendant Mohammed Rashad al-Hawi confessed that he knew Ahmad al-Kasm and that the two of them and a third person had agreed to set up camp in the Oyoun al-Samak area. They had gone there the following day and al-Kasm had had a pistol with him. Khaled Hamid, Mounir Aboud and two others whose names he did not know had turned up and given him a Kalashnikov assault rifle with which to guard the camp, where they had stayed for three days. On another occasion, they had agreed to set up another camp in the same place, where they went with Khaled Hamid, Ahmad al-Kasm, Mounir Aboud and others, including Mohammed Ali al-Saghir, also known as Sarajevo. At the camp, they had discussed religious matters and practised shooting their firearms in a neighbouring area. They had stayed for three days and then returned to Tripoli, where Khaled Hamid had asked him to look after three firearms for use in other camps in order to avoid taking them to Beirut. He had therefore kept the guns at his house. After the names of those who had carried out the assassination of Sheikh Nizar al-Halabi were publicized in the media, he had taken the weapons to his brother's house without his knowledge and hidden them in one of the chairs in the sitting room, together with the ammunition. These weapons – three Kalashnikov assault rifles and their ammunition – were seized by the law enforcement agencies on the basis of a warrant from the investigating judge.

Mohammed Rashad al-Hawi denied having any connection or personal acquaintance with Abu Mohjen.

Mohammed Ali Abla confessed to knowing Abu Mohjen through Khaled Hamid, whom he had accompanied in 1993 to Ain al-Helweh camp, where he had met Abu Mohjen. He had repeatedly visited him in his home, where Abu Mohjen would talk about Islam and Islamic jurisprudence, advising a return to the fundamental principles of religion and engagement in jihad to that end. He had also talked to him about weapons and fighting with the aim of establishing an Islamic state.

He further confessed that Khaled Hamid had left a quantity of weapons and ammunition with him during the period preceding the assassination of Sheikh Nizar al-Halabi and that some of the weapons had been retrieved two days before the assassination and the remainder about one and a half months later. The weapons consisted of Kalashnikov rifles, a [illegible] assault rifle and their ammunition. He added that Khaled Hamid had taken him, Mounir Aboud, Bilal Abu Alfah and two others, Adnan and Abu Masaab, to an area near Nahr al-Bared camp in 1993, where they had undergone firearms training.

Mohammed Abla denied that Abu Mohjen had asked him to join Osbat al-Ansar and also denied knowing that some of the weapons he was keeping were to be used in the assassination of Sheikh Nizar al-Halabi.

The defendant Haytham Mohammed Hamad confessed to being a member of Osbat al-Ansar, which he had joined in 1988, when it had been under the leadership of his relative, Sheikh Hisham al-Shuraydi. Abu Mohjen had taken over the leadership after Hisham was killed and had begun to teach its members about jihad and preparations for the establishment of an Islamic state. He had promised to give Haytham Hamad military training so that he could become one of his fighters. According to his teachings, the primary aim was to carry out strikes against the groups of foreign tourists who came to visit Sidon's ancient monuments. Haytham had taken turns with a number of other followers in guarding Abu Mohjen's house and had also been assigned by Abu Mohjen to watch Mounir al-Miqdah, a Fatah official, and other Fatah members. He had discharged the assignment, reporting back to Abu Mohjen on their movements, and had been further assigned to gather information at his workplace outside the camp. He also confessed that Abu Mohjen had asked him to monitor the Lebanese army checkpoints at the entrances to the camp on discovering that it had been cordoned off following Al-Halabi's assassination. He had carried out Abu Mohjen's instructions and relayed to him the information he had requested about the fixed and mobile military checkpoints and the number of motorized units and men. Abu Mohjen had asked his men to remain on full alert after setting up fighting positions around his headquarters and had urged them to engage in combat with the army to prevent them from entering the camp and arresting him and his followers.

The defendant Maher Mohammed Hamad confessed to having been a member of Osbat al-Ansar since the time when it was under the leadership of Hisham al-Shuraydi. He had remained the group after it was taken over by Abu Mohjen, who had asked him to recruit as many as possible of the young men in the camp as members, which he did. At Abu Mohjen's request, he had assumed the task of giving lessons in the faith to the group's members.

He further confessed that he had good fighting skills, having been a member of Fatah. Abu Mohjen had asked him to obtain information on army reinforcements in the area surrounding the Ain al-Helweh camp after it was broadcast in the media that he was responsible for the assassination of Sheikh Nizar al-Halabi. Abu Mohjen had asked his men to resist the army and prevent it from entering the camp. Maher had carried out his wishes and provided him with the requested information.

The defendant Mohammed Ahmad Ismail confessed to having been a member of Osbat al-Ansar since 1994, when he had read about the group's ideas and aims, its call for greater strictness in religion and its endeavour to establish an Islamic state and to strike anti-Islamic targets. He knew Abu Mohjen, who had inspired him to answer the call to jihad in the interests of Islam, and had sent him for security training, including in such matters as how to cross checkpoints and how to avoid making confessions in the event of arrest by the authorities. He added that, immediately after Sheikh Nizar al-Halabi was killed, Abu Mohjen had ordered his followers to prepare for battle and to resist the Lebanese Army if it decided to enter Ain al-Helweh camp. To that end, Abu Mohjen had divided his men into fixed and mobile armed groups stationed about the camp and opposite the army checkpoint. One such group was under the command of a man called Mohammed Salim, a military and security officer in Osbat al-Ansar. Mohammed Ismail had been a member of this group and it was his job to monitor the movements of the army. The groups were armed with light anti-tank weapons, rocket-propelled grenade (RPG) shells, 16-mm rifles, 18-mm shells and Kalashnikov rifles. Mohammed Ismail added that Abu Mohjen would buy different types and quantities of weapons from his brother, the defendant Nasser Ismail, in Nahr al-Bared camp and that he would sometimes transport these weapons in his company van, which belonged to Marai Dairies in Sidon, where he worked. He had moved four lots of weapons, including pistols, assault rifles, guns and light anti-tank weapons.

The defendant Khaled Hamid confessed in his statement to the investigating judge that Abu Mohjen had asked him to acquire a sight for an M-16 rifle and a cartridge for a [illegible] assault rifle. He had therefore gone to Nahr al-Bared camp, where he had purchased what was required from the defendant Nasser Ismail.

The defendant Hani Subhi al-Othman confessed that he had been introduced to Khaled Hamid and Mounir Aboud in 1994 by Khadr Maqsoud, whom he had come to know when he was a member of the Islamic Jihad organization. Hamid and Aboud had then taken him to Ain al-Helweh camp, where he had met Abu Mohjen, who urged him to bring others along for him to meet. He had therefore taken several of his relatives and people from his town, including Maarouf Faraj Tarraf, Badr Tarraf, Bilal al-Farkh, Ribah Alawi and Izam Ghanem, to meet Abu Mohjen, who would deliver talks on religious matters, Islamic jihad and the establishment of an Islamic state in Lebanon and Greater Syria. With regard to his military training during that period, he stated that approximately one month after being introduced to Abu Mohjen, he had been taken by Khaled Hamid, Mounir Aboud, Khadr Maqsoud, Maarouf Tarraf and others to the outside of Al-Nabi Yushaa in Al-Mouniyah, where they had practised with firearms. Mohammed Ali al-Saghir, known as Sarajevo, had also been present and had joined them in the firearms training. He added that Khadr Maqsoud had come to his house in early February 1995 and given him five detonators, asking him to keep them for him until he returned, but that he had been afraid that his younger

brothers might play with them and so had given them to Badr Tarraf to keep at his house. When Khadr Maqsoud later refused to take the detonators back, he had asked Badr Tarraf to throw them away. Khadr Maqsoud had also come back to ask him to hide a light anti-tank weapon and a Kalashnikov assault rifle, but he had refused.

Badr Faraj Tarraf – who was exempted from prosecution pursuant to the indictment decision – confessed to having been introduced to Abu Mohjen in early 1995 by Hani al-Othman and to having visited him repeatedly, when he would talk about Islamic jihad and the establishment of an Islamic state. He corroborated Hani al-Othman's statement concerning the detonators given to him by Maqsoud.

The defendant Mohammed Taha Baydoun confessed to having had contact with Abu Mohjen, whom he had got to know through Khaled Hamid and Mounir Aboud. Abu Mohjen had given him lessons in the principles of jihad and of Osbat al-Ansar as a preliminary to joining the group. These lessons had also conveyed the message that the establishment of an Islamic state and the non-recognition of government authorities were essential. In 1995, he had undergone firearms training with Hamid and Aboud in an area near Nahr al-Bared camp and in the area of Oyoun al-Samak, where Mohammed Ali al-Saghir had also joined them. He also stated that approximately three days before Sheikh Nizar al-Halabi was assassinated, he had received two envelopes containing Mounir Aboud's will, which he was to give to his family should he be killed. He had placed both envelopes in his safe but after the identity of Sheikh al-Halabi's killers was revealed and Mounir Aboud confessed to his role in the operation, he had taken fright and burnt the two envelopes without looking at the content of the will.

On being questioned during the preliminary stages of the investigation about the content of the will, the defendant Mounir Aboud stated that he had asked his family to establish the truth, regardless of the scheming of unbelievers, oppressors and rulers, and he had told them that he had opted for jihad and that Al-Ahbash should not march in his funeral procession.

The defendant Tariq Ali Ismail confessed that he had been connected since 1995 with Osbat Al-Ahbash and its leader Abu Mohjen, to whom he had been introduced by Mounir Aboud, who would come to his house in Beirut with Khaled Hamid, Mohammed Ali al-Saghir and Mohammed Baydoun. Two weeks before Sheikh Nizar al-Halabi was killed, Khaled Hamid had asked him to attend religious classes. In July 1995, he had agreed with Khaled Hamid and Mounir Aboud to undergo firearms training and they had gone with others to the Oyoun al-Samak area, where they had practised using the assault rifles and pistols in their possession, having first obtained ammunition for the purpose from Abu Mohjen. The purpose of this training was to ensure his military preparedness when he was called to jihad. With regard to the plans that he was to execute through Osbat al-Ansar, he stated that in December 1995 he had gone to Beirut's Hamra district with Mounir Aboud and Khaled Hamid to scout out cafés and night clubs, which had been noted down by Khaled Hamid, who vowed to blow them up. He also planned to blow up a restaurant for selling alcoholic drinks in the vicinity of a mosque on New Year's Eve.

The defendant Bassam Ali Ismail confessed to having had firearms training in the area of Oyoun al-Samak in the early summer of 1995, together with Mounir Aboud, who had instructed him in how to use weapons. He added that he knew Khaled Hamid, who had given him lessons in

the Quran and Islamic jurisprudence, and that Mounir Aboud had given him photographs of young men carrying weapons, who included Mounir himself and Khaled Hamid, as well as other documents, including his will in case he was killed. He had in turn given the will to Mohammed Baydoun because Mounir Aboud had written his name on the back of it. Bassam Ismail, however, denied any knowledge of the operation to kill Sheikh Nizar al-Halabi and also denied knowing Abu Mohjen.

Acting on a warrant from the investigating judge, the law enforcement agencies had raided the homes of Bassam Ismail and his brother and seized a number of religious books, as well as leaflets and declarations advocating jihad, anti-establishment activities, action against Al-Ahbash, the establishment of an Islamic state and attacks on the Lebanese authorities and their symbols. Mounir Aboud had given the documents to Bassam Ismail for him to hide, according to the latter's statement.

The law enforcement agencies confiscated the motorcycle belonging to Wasim Abd al-Mo'ti which had been used in the assassination – a white and red Honda 400 bearing the registration number 43688/L.

During the questioning of the defendants before the Judicial Council, Khaled Hamid refused to respond to the questions put to him, as did Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti, Rabih Nabah and Mohammed Ali al-Saghir. Most of the other defendants retracted the statements they had made during the preliminary investigations and interrogations, claiming that they had been altered or extracted from them by force.

## **Chapter V**

### **Evidence**

#### **I. The defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah, Wasim Abd al-Mu'ti and Khadr Maqsoud**

##### **1. Available evidence**

The available evidence with regard to these defendants is as follows:

##### **A. Evidence adduced from their confessions during the preliminary investigations and interrogations**

The defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah, Wasim Abd al-Mo'ti and Khadr Maqsoud confessed either to being connected with Osbat al-Ansar through their membership of the organization, to supporting and being committed to its ideas and concepts of religion and Sharia law, or to having directly met its leader Abu Mohjen and received direct instructions from him or from persons representing him.

They also confessed to possessing unlicensed firearms and to using them either for shooting practice with a view to achieving the aims of Osbat al-Ansar or in the operation to assassinate Sheikh Nizar al-Halabi and in the operations that preceded or followed it.

Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti confessed to having made three attempts to assassinate al-Halabi, the first in April 1995, in which Raed al-Rifaii also took part. This attempt was carried out as described in the chapter on the facts and failed to produce the desired result, namely the killing of Sheikh Nizar al-Halabi, because he did not pass by the spot where they were lying in wait and because the defendants were afraid of being exposed after arousing the suspicion of followers of the Sheikh in the area.

They confessed to the second attempt, which took place approximately ten days after the first and in which Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Raed al-Rifaii, Wasim Abd al-Mo'ti and Khadr Maqsoud took part. In their confessions, they provided details of this attempt and of the role they each played, as set forth in the chapter on the facts, and confirmed that the desired outcome had not been achieved because Sheikh al-Halabi had taken a route other than the one where they were lying in wait for him.

They confessed to the third attempt, which took place on the evening of 30 August 1995 and in which Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Rabih Nabah took part, as detailed in the chapter on the facts. That attempt also failed to result in the killing of Sheikh Nizar al-Halabi owing to the fact that he did not leave the house that night.

With regard to the operation to assassinate Sheikh Nizar al-Halabi, the accused Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti confessed to

having carried it out by opening fire on and killing the Sheikh after positioning themselves in front of his house. All of them had been armed. Khaled Hamid had been driving the car, which was also carrying Mounir Aboud and Ahmad al-Kasm, and had used it to block the road to Sheikh al-Halabi's car while Aboud and al-Kasm fired their assault rifles at him, at his car and those inside, and at his bodyguards. Rabih Nabah and Wasim Abd al-Mo'ti, who were riding the motorcycle and were also armed, confessed to assisting those in the car by protecting them after Sheikh al-Halabi was seen leaving his house.

The confessions of the aforementioned defendants were consistent in every detail and corroborate the facts already stated.

**B. Evidence adduced from the confession of the defendant Khadr Maqsoud during the preliminary questioning, corroborated by his statement before the Judicial Council**

The defendant Khadr Maqsoud corroborated before the Judicial Council the content of the statement he had given during his preliminary questioning by a member of this Council on 9 May 1996. In that statement, he confessed to having participated with Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Raed al-Rifaii in the second attempt to assassinate Sheikh Nizar al-Halabi. His statements in that regard were consistent with those of the other defendants, namely that in April 1995 Khaled Hamid, Mounir Aboud, Ahmad al-Kasm and Raed al-Rifaii had come to his house in Tripoli and taken him to the area of Oyoun al-Samak, where they had engaged in shooting exercises with firearms. On their return, Khaled Hamid had asked him to go to Beirut the next day because they would be "making mincemeat" of Sheikh Nizar al-Halabi. He had indeed met them on that day, which coincided with the date of the second attempt, and they had all gone to the Bourj Abi Haydar area, together with Wasim Abd al-Mo'ti, who had come on his motorcycle, which was used in the operation to assassinate Sheikh Nizar al-Halabi on 31 August 1995 and which Khadr Maqsoud recognized when he saw it on television during the re-enactment of the crime that followed the arrest of the defendants. He also confessed that Wasim Abd al-Mo'ti had told him while they were there that they wanted to kill Sheikh Nizar al-Halabi because he was creating dissension and division among Muslims. That day's operation was not completed, however, because Sheikh al-Halabi had not passed the spot where they were lying in wait for him.

**C. Evidence adduced from the re-enactment of the crime**

On 21 December 1995, the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti demonstrated, in the presence of the Government Commissioner for the military court, how they had executed the operation to assassinate Sheikh Nizar al-Halabi. This was noted in an official record signed by the Government Commissioner, which comprised a statement from Khaled Hamid, Wasim Abd al-Mo'ti and Rabih Nabah that they had not had the honour of "direct execution" in the operation to kill Sheikh Nizar al-Halabi because, they claimed, they themselves had not fired at him. Mounir Aboud and Ahmad al-Kasm also stated that they did not regret what had occurred and that they wanted to kill others like him.

The facts of the re-enactment of the crime were recorded live in a videotape shown at a public hearing of the Judicial Council. After seeing the tape, Mounir Aboud confirmed that it was

he who was shown during the re-enactment of the crime and that he had spoken the words in the film to the effect that he had participated in the assassination. Rabih Nabah, Wasim Abd al-Mo'ti and Ahmad al-Kasm identified themselves on the tape. None of them expressed any reservations regarding its content, their images or the statements made by them confirming that they had participated in the assassination.

It follows that the videotape, on the one hand, and the re-enactment of the crime by the defendants, on the other, corroborate their confessions and the role that they each played in the operation to assassinate Sheikh Nizar al-Halabi in the manner stated in the chapter on the facts.

#### **D. Evidence adduced from witness statements**

During the preliminary investigations that took place immediately, witnesses Fadi al-Sardouk, Ali al-Noumani, Zakariya al-Ghoul, Khaled Adnani, Ziyad Akrah and Mohammed al-Halabi provided facts and details that were largely consistent with the statements of the defendants, including the fact that, moments before the assassination, Fadi al-Sardouk had seen a Mercedes with tinted glass that obscured the view to the inside, a piece of cardboard on its front windscreen and its engine running, parked facing the street where Sheikh al-Halabi's house was located. These details of his testimony correspond to those given by the defendants immediately after their arrest. The witness Ali al-Noumani also stated that he had seen two men getting out of a Mercedes parked in front of Sheikh Nizar al-Halabi's car, one from the front right-hand seat and the other from the back seat. They had fired their assault rifles, focusing on Sheikh al-Halabi himself. The statement from this witness corroborates the confessions made by the defendants about how Sheikh al-Halabi was shot at by Mounir Aboud and Ahmad al-Kasm, as detailed in the chapter on the facts.

The witnesses Yahya al-Ghoul and Khaled Adnani stated in the same preliminary investigations that they had seen one of the two men who fired at Sheikh al-Halabi putting white tape on his face, which matches the statements of the defendants to the effect that Mounir Aboud had been irritated by the face disguise made of women's stockings and had gone to a nearby pharmacy to buy a roll of cotton that he had used to disguise his face.

In addition to the foregoing, the confessions of the defendants were consistent with the statements given by the other witnesses during the preliminary investigation or before the Judicial Council. They included Imad Sabouh, Issam al-Sawwas and Ziyad al-Khabbaz. Imad Sabouh confirmed that he had seen the Mercedes car and two armed men getting out and firing. The witness Isam al-Sawwas confirmed that he had seen the two men who fired at Sheikh al-Halabi; they had got out of the car, one of them masked and the other not, and had started shooting at Sheikh al-Halabi. He identified one of them as Mounir Aboud on being confronted with him during the investigation. The witness Ziyad al-Khabbaz stated that he had also seen the same car parked in the middle of the road after hearing shots and that it had immediately driven away. When he was confronted with Mounir Aboud at the Ministry of Defence, the latter had begun boasting at the top of his voice that he had killed Sheikh al-Halabi.

**E. Evidence adduced from the technical report on criminal evidence**

The criminal evidence report from Syria confirmed that the empty cartridges found at the scene of the crime came from three 7.62-mm Kalashnikov rifles, which is consistent with the confession of the defendants Mounir Aboud and Ahmad al-Kasm concerning the firearms they used in the assassination, which were of the same type and calibre.

Although the report states that the cartridges came from three rifles and not two, the probative value of the report is not diminished, since the qualified military expert Michel Farivar confirmed that the cartridges used in the offence could have different indentations, even if they came from one firearm, if the ammunition comprised different metals and types of gunpowder.

**F. Evidence adduced from the reports of the forensic physician**

The forensic physician, Dr. Walid al-Shaqir, confirmed in his reports and in his statement before the Judicial Council that the injuries to Sheikh al-Halabi, his son Bilal and his two bodyguards had been caused by two 7.62-mm weapons, citing as evidence the varying direction of the wounds, which were from both sides and from anterior to posterior, and explaining that Sheikh al-Halabi's wound from a bullet that entered his back and exited from his stomach showed that his body had changed position after the first injury and leaned towards the left. The site of the wounds further showed that the first gunman had been standing in front of Sheikh al-Halabi and the second on his right, and that he had been hit no fewer than 25 times. Sheikh al-Halabi's two bodyguards, Nabil al-Dhaw and Ramadan al-Tabash, were also injured, which is consistent with the confession of the defendants Mounir Aboud and Ahmad al-Kasm with regard to their firing at Sheikh al-Halabi and his two bodyguards.

**G. Evidence adduced from the search of the crime scene by the Tariq el-Jdideh squad**

The search of the crime scene by the Tariq el-Jdideh squad revealed some 54 Kalashnikov cartridges, damage to the front windscreen and other parts of Sheikh al-Halabi's car and a shattered rear window, which is consistent with the confessions of the defendants Aboud and Al-Kasm that they pelted the front windscreen and windows of Sheikh al-Halabi's car with fire from their assault rifles as he sat inside.

**H. Evidence adduced from the joint motive of the defendants**

The defendants Hamid, Aboud, Al-Kasm, Nabah and Abd al-Mo'ti confessed during the preliminary investigations and interrogations that they shared the same motives for killing Sheikh Nizar al-Halabi. Khaled Hamid confirmed in his statement to the Judicial Council that he considered Sheikh al-Halabi to be responsible for dividing Muslims and seducing clerics into unbelief, in addition to which he aspired to the position of Grand Mufti of the Republic, which, in Hamid's view, would be a disaster for Muslims. For all of those reasons, his elimination was a matter of necessity.

Mounir Aboud confirmed that the motive for assassinating Sheikh al-Halabi was that he perverted the verses of the Quran and turned Islamic jihadists into unbelievers, a motive

corroborated by Ahmad al-Kasm's statement and detailed elaboration. Rabih Nabah regarded the killing of Sheikh Nizar al-Halabi as natural; he was an apostate from Islam and exerted a harmful influence on Muslims. Wasim Abd al-Mo'ti stated during the preliminary investigation that Sheikh al-Halabi's killing was justified by his deviation and apostasy from religion and the Sharia.

The joint motive of the said defendants constitutes evidence of their involvement in the assassination of Sheikh Nizar al-Halabi, as indicated in their confessions.

**I. Evidence adduced from the confession of the defendant Mohammed Ali al-Saghir regarding his assignment to monitor Sheikh Nizar al-Halabi**

The defendant Mohammed Ali al-Saghir confessed during the preliminary investigation and interrogation to having been assigned by Khaled Hamid to monitor the Bourj Abi Haydar mosque and inform him of the movements of Sheikh Nizar al-Halabi. To that end, he had been given binoculars and a radio. The evidence adduced from this fact is that the defendants intended to monitor Sheikh al-Halabi's movements until the right opportunity for his assassination arose.

**J. Evidence adduced from the confession of the defendant Mohammed Ali Abla to the concealment of weapons**

The defendant Mohammed Ali Abla confessed during the preliminary investigation and interrogation, as well as before the Judicial Council, that Khaled Hamid had left a quantity of firearms in his care and retrieved some of them two days before the assassination was executed. This constitutes evidence of the fact that the defendant used the firearms in the operation to assassinate Sheikh Nizar al-Halabi.

**K. Evidence adduced from the statement of the witness Zakariya al-Ghalayini before the Judicial Council and from the seizure of the motorcycle used in the assassination**

The witness Zakariya al-Ghalayini stated that he was the owner of a metal and paintwork garage and that the defendant Wasim Abd al-Mo'ti had a white and red Honda motorcycle that he had consigned to him for repairs and subsequently collected. It had not been in his garage on the day when Sheikh Nizar al-Halabi was killed. After the crime and the identification of the perpetrators, Wasim Abd al-Mo'ti's father and the attorney representing him had asked him to testify that the motorcycle had been in his garage on the day of the crime.

The attempt by the attorney and father of the defendant Wasim Abd al-Mo'ti to mislead the investigation by urging the witness Zakariya al-Ghalayini to give a statement that distorted the facts concerning the motorcycle in this way constitutes evidence of the defendant Abd al-Mo'ti's role in the assassination through his use of the motorbike during the operation.

Furthermore, the said motorcycle, a white and red Honda 400 bearing the registration number 43688/L, was seized from Wasim Abd al-Mo'ti.

## **2. Discussion of the evidence**

The defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Wasim Abd al-Mo'ti and Rabih Nabah challenged the evidence invoked against them, using the arguments summarized in the chapter on pleadings and applications.

The following is the response thereto:

### **A. Probative value of the confessions of the said defendants**

First, there is nothing in the investigation to prove that the confessions were extracted by physical or mental coercion. Furthermore, the details and particulars contained in the confessions regarding the factual circumstances before, during and after the assassination are consistent with the defendants' statements, and they were not made in each other's presence or with prior knowledge. The defendants also reviewed them before the investigating judge after delivering their statements during the preliminary investigation. For all of these reasons, the Council is convinced that the confessions are true and is consequently relying on them as evidence of the facts adduced.

Second, the failure of the investigating judge to ask the defendants whether they wished to seek the assistance of a lawyer does not negate the probative value of the confessions, in the light of Article 70 of the Code of Criminal Procedure, which rules out invalidation in such a case.

Third, the argument that the defendants' confessions cannot be taken into account because they did not corroborate them when questioned by the Judicial Council is inadmissible; the Council, as stated above, accepts as evidence any circumstantial elements of the case that it believes to be admissible and convincing and disregards all others. The attempt by the defendants to retract their confessions and their failure to corroborate them constituted nothing more than self-defence and a bid to evade responsibility.

Their attitudes and reactions to the screening of the tape showing their re-enactment of the crime reaffirm and reinforce their confessions regarding the assassination.

The attempt by their counsel to characterize their proven criminal acts in a manner that is logically at odds with the facts, such as stating that their attempts had been rehearsals and that the confessions concerning the assassination that they subsequently retracted were due to dreams that they had been fed and the honour to which they aspired but failed to achieve, has no factual basis in the evidence on file and is, in the Council's view, devoid of credibility.

There is nothing to substantiate the argument that the law enforcement agencies influenced the details provided in the confessions; most of the details could not have stemmed from anyone other than those who actually experienced the situation or were immediate bystanders.

**B. Inconsistency of witness statements**

The fact that the witness statements are not consistent in every detail does not negate the probative value of their core content, and the Council has discretion to take the circumstantial part of the statements and match it with other convincing evidence with which it is satisfied. In weighing up the evidence in question, the Council found consistencies with the witness statements and sufficient material to convince it of the main factual details pertaining to the assassination. All statements to the contrary are therefore dismissed.

**C. Statements that the defendant Wasim Abd al-Mu‘ti was at his workplace at the time of the offence**

Rejecting the charges against him, the defendant Wasim Abd al-Mo‘ti argues that, as stated by the witness Ali Abd al-Razzaq Darwish before the Judicial Council, he was at his workplace at the time of the assassination.

The statement of the said witness conflicts with the testimonies of all witnesses from Wasim’s workplace and with the evidence already adduced, particularly with regard to the confessions made by the defendant Abd al-Mo‘ti himself during the preliminary investigation and interrogation stages, and with the confessions of the other defendants regarding him, the details of which were consistent in all cases. It also conflicts with the statement made by the defendant Khadr Maqsood during his preliminary questioning, which he corroborated before the Judicial Council. He confirmed that, on seeing the re-enactment of the crime on television, he had recognized Wasim Abd al-Mo‘ti’s motorcycle as that used by Wasim in one of the attempts to assassinate Sheikh Nizar al-Halabi.

This collection of interlinked evidence corroborating the role of the defendant Wasim Abd al-Mo‘ti in the assassination nullifies the statement of witness Ali Darwish that the defendant was at his workplace, so that this statement must be dismissed.

It follows from the foregoing that the defence arguments concerning the evidence pertaining to the defendants under consideration must be dismissed, since the evidence set out above is sufficient to substantiate the facts set forth in this judgement. The presence of holes in the rear of the car and a wound to the victim’s that penetrated from the back to the abdomen – a direction explained by the forensic physician – does not alter the Council’s view, as set out above.

**D. Hearing of other witnesses and the application to open the trial**

Whereas the Council heard a substantial number of witnesses, including eyewitnesses of the incident and Wasim Abd al-Mo‘ti’s work colleagues and neighbours or people with whom he had dealings in connection with his motorcycle, their testimony did not conclusively prove that he was not at the scene when the offence was committed or negate the accumulated evidence of his participation in this offence.

The Council, having obtained evidence confirming that the defendants under consideration played a role in the offence, sees no merit in hearing defence witnesses who have not been heard.

Whereas it appears from the conduct of the trial and of the investigations undertaken during the trial, on which the defence concentrated, as well as from the defence arguments and excerpts from documents, including a copy of a press interview with the Mufti of Jabal Lubnan, Sheikh al-Juzu, that the defence, in calling for more witnesses, including religious elders in particular, wished to focus on what it alleges to be the misdeeds of Al-Ahbash, who were headed by the victim Al-Halabi, and on their attacks on Muslims and their religious elders, their misguided religious beliefs, their attempts to assume the office of Grand Mufti and other similar matters.

Whereas the Council, in examining this application, emphasizes two aspects:

1. The Council is bound solely by the principles of Lebanese positive law, whether or not it is based on the Sharia;

2. Neither the motive for the offence nor the aim it was intended to achieve has any effect on the elements of the offence of homicide as defined by law, on the penalty prescribed by law or on the sentence imposed by the Council, following the promulgation of Act No. 302 of 21 March 1994, which prohibited the granting of mitigating circumstances.

Whereas, on this basis, the Council does not see fit to hear additional witnesses inasmuch as there is no merit and nothing to be gained from hearing them; as it would also prolong the case to no avail, the application is hereby dismissed.

## **II. The defendant Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen**

The available evidence with regard to the defendant Ahmad Abd al-Karim al-Saadi is as follows:

### **1. Evidence adduced from the defendants' statements during the preliminary investigations and interrogations**

The defendant Khaled Hamid confessed during the two stages of the investigation that he and his associates had killed Sheikh Nizar al-Halabi under the instructions and orders of Ahmad al-Saadi, otherwise known as Abu Mohjen, who considered Sheikh al-Halabi to be a danger to Muslims. He had urged them to plan his assassination, to treat it as a serious matter and to work for its achievement. Abu Mohjen had chosen him, Mounir Aboud and Ahmad al-Kasm to execute the operation and had supplied them with weapons, communication equipment and a Mercedes car for the purpose of discharging the assignment, insisting to Khaled Hamid after the failure of the first and second attempts that hope was not lost and that the operation should be pursued until it was successfully executed. The perpetrators had then gone back to Abu Mohjen to return the weapons and he congratulated them for what they had done. Hamid explained that he would

report to Abu Mohjen on the progress of the operations, in particular concerning the failure of the first two attempts, and that Abu Mohjen had led him to understand at the time that the failure was due to poor surveillance. He had hardened his resolve and asked Hamid to persist with the plan and not to give in to despair.

The defendant Mounir Aboud confessed that the assassination of Sheikh Nizar al-Halabi had been carried out at the instigation, under the guidance and at the request of Abu Mohjen himself. He had told them to kill and not to bail out or be afraid, claiming that Al-Halabi was fighting the fundamental principles of Islam, perverting the verses of the Quran and turning jihadists into unbelievers. Aboud also confessed that Khaled Hamid had told him that the weapons used to execute the offence and the Mercedes car had been supplied for that purpose by Abu Mohjen.

The defendant Ahmad al-Kasm confessed that Khaled Hamid would receive orders and instructions about the operation from Abu Mohjen and that he – Ahmad al-Kasm – had purchased some of the weapons used in the operation from Abu Mohjen and then left them with him after the assassination had been executed. Immediately after the assassination, he had gone with his associates to Ain al-Helweh camp and they had met Abu Mohjen, who was pleased that Sheikh Nizar al-Halabi had been killed. They had offered up prayers of thanksgiving for the successful execution of the operation.

The defendant Rabih Nabah confessed that he had gone with Ahmad al-Kasm and then with Wasim Abd al-Mo'ti to see Abu Mohjen after the assassination and that it was clear to him that Abu Mohjen knew the persons who had carried out the operation.

Furthermore, Khaled Hamid and Mohammed Ismail confessed during the preliminary investigation and interrogation that they had purchased firearms on behalf of Abu Mohjen and conveyed them to him.

The defendants Jamil Hamoud, Mohammed Ismail, Hani al-Othman and Mohammed Baydoun also confessed to having undergone firearms training on orders from Abu Mohjen, who would talk to them about the need to establish an Islamic state in Lebanon and Greater Syria and about the non-recognition of government authorities. The defendant Hani al-Othman confirmed that Abu Mohjen had urged him to bring his relatives and friends to meet him and that he had talked to them about the same subjects.

Maher Hamad, a member of Osbat al-Ansar, which is headed by Abu Mohjen, also confessed that the latter had instructed him to find out about army reinforcements in the area surrounding Ain al-Helweh camp and had also asked his men to resist the army and prevent it from entering the camp. He had carried out Abu Mohjen's wishes and provided him with the requested information. This was confirmed by the defendant Mohammed Ismail in his confession, in which he stated that, immediately after Al-Halabi's assassination, Abu Mohjen had deliberately divided his men into armed groups and given them shells and rifles with which to resist the Lebanese army if it decided to enter Ain al-Helweh camp.

**2. Evidence adduced from the absconding of the defendant Ahmad Abd al-Karim al-Saadi**

The disappearance of the defendant Ahmad Abd al-Karim al-Saadi, or Abu Mohjen, following the identification of those who assassinated Sheikh Nizar al-Halabi and his failure to appear before the Judicial Council constitute evidence that the information concerning the acts attributed to him in the chapter on the facts is accurate.

**III. The defendant Raed al-Rifaii**

The available evidence with regard to the defendant Raed al-Rifaii is as follows:

**1. Evidence adduced from the defendants' statements during the preliminary investigations and interrogations and the preliminary questioning**

The defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Mounir Aboud [*sic*] and Rabih Nabah confessed during the preliminary investigations and interrogations that the defendant Raed al-Rifaii had played a role in the first and second attempts preceding the assassination of Sheikh Nizar al-Halabi, thereby corroborating the accuracy of the information concerning the acts carried out by the said defendant, as set forth in the chapter on the facts.

The defendant Khadr Maqsood made the same confession during his preliminary questioning and corroborated it in his statement before the Judicial Council.

**2. Evidence adduced from the absconding of the defendant Raed al-Rifaii**

The disappearance of the defendant Raed al-Rifaii and his failure to appear before the Judicial Council constitute evidence that the information concerning the acts attributed to him is accurate.

**IV. The defendant Mohammed Ali al-Saghir**

The available evidence with regard to the defendant Mohammed Ali al-Saghir is as follows:

**1. Evidence adduced from his confession during the preliminary investigations and interrogations**

The defendant Mohammed Ali al-Saghir confessed during the preliminary investigations and interrogations to the acts he had carried out, as set forth in the chapter on the facts.

**2. Evidence adduced from the statements of the defendants Khaled Hamid, Mohammed Rashad al-Hawi, Hani al-Othman and Mohammed Baydoun**

The defendants Khaled Hamid and Mounir Aboud stated during the investigation that Mohammed Ali al-Saghir had been assigned to keep watch on Sheikh Nizar al-Halabi in order to tell them what time he left the Bourj Abi Haydar mosque. They confirmed, however, that the defendant Mohammed al-Saghir had not been fully aware that there was a plan afoot to assassinate Sheikh al-Halabi.

Furthermore, the defendant Mohammed al-Hawi stated during the preliminary investigation and interrogation that Mohammed al-Saghir had accompanied him and others to a camp in the area of Oyoun al-Samak in the north, where they had engaged in firearms exercises. The defendant Mohammed Baydoun also stated that he and Mohammed Ali al-Saghir had undergone firearms training together in 1995. The defendant Hani al-Othman confirmed during the preliminary investigation that Mohammed Ali al-Saghir had participated with him in firearms training in the area of Al-Mouniyeh.

**V. The defendant Jamil Ibrahim Hamoud**

The defendant Jamil Hamoud confessed during the preliminary investigation to the acts undertaken, as set forth in the chapter on the facts. This confession is not negated by his retraction during the preliminary interrogation and before the Judicial Council or by his denial of having undergone military training with Abu Mohjen. The explanation for such a retraction is that it is simply an attempt to evade responsibility for the charge laid against him.

The plea of the defendant Jamil Hamoud that the preliminary investigation and interrogation are invalid for the reasons stated by his associates is dismissed on the grounds already stated in considering the same plea by the defendants Hamid, Aboud, Al-Kasm, Abd al-Mo'ti and Nabah.

**VI. The defendant Mohammed Rashad al-Hawi**

The available evidence with regard to the defendant Mohammed Rashad al-Hawi is as follows:

**1. Evidence adduced from his confession during the preliminary investigation and interrogation**

The defendant Mohammed Rashad al-Hawi confessed during the preliminary investigation and interrogation stages to the acts attributed to him, as set forth in the chapter on the facts.

## **2. Evidence adduced from the seizure of weapons concealed by him**

On the basis of information contained in Mohammed Rashad al-Hawi's statement during the preliminary investigation, the law enforcement agencies involved in the investigation seized the assault rifles hidden by the defendant at his brother's house on behalf of Khaled Hamid, i.e. three Kalashnikov assault rifles and ammunition.

The pleas raised by the defendant Mohammed Rashad al-Hawi concerning the preliminary investigation and interrogation have already been ruled upon above.

## **VII. The defendant Mohammed Ali Abla**

The available evidence with regard to the defendant Mohammed Ali Abla is as follows:

### **1. Evidence adduced from his confession during the preliminary investigation and interrogation**

The defendant Mohammed Ali Abla confessed in his statement during the preliminary investigation and interrogation to the acts that he had undertaken, as set forth in the chapter on the facts.

### **2. Evidence adduced from the statements of the defendants Khaled Hamid and Mounir Aboud during the interrogation**

The defendants Khaled Hamid and Mounir Aboud confirmed in their statements to the investigating judge that they had left firearms – assault rifles acquired from Abu Mohjen by Khaled Hamid – with Mohammed Abla without explaining to him what their purpose was.

## **VIII. The defendants Haytham Mohammed Hamad and Maher Mohammed Hamad**

The defendant Haytham Hamad confessed during the preliminary investigation and interrogation to the acts that he had undertaken, as set forth in the chapter on the facts. He confirmed that he had been assigned to guard the house belonging to Abu Mohjen, who had set up fighting positions around his headquarters. This bears out the fact that he was in possession of the firearms needed to discharge his assignment as a guard, particularly since Abu Mohjen had urged his men, one of whom was Haytham Hamad, to fight the Lebanese Army in order to prevent it from entering the camp after the assassination of Sheikh al-Halabi was discovered.

The defendant Maher Hamad confessed to belonging to Osbat al-Ansar and to carrying out activities within the group under orders from Abu Mohjen, thereby substantiating the fact that he was involved in carrying out the latter's orders to prepare for a fight with the army to prevent it from entering the camp. In other words, he was armed during that period, as demanded by the assignment.

The retraction of those confessions by the two defendants before the Council cannot be taken into account inasmuch as the sole justification for it is the intention to refute the charge laid against them.

## **IX. The defendant Mohammed Ahmad Ismail**

The defendant Mohammed Ismail confessed during the preliminary investigation to the acts that he had undertaken. He corroborated this confession before the investigating judge but retracted what he had said concerning the carrying of weapons on behalf of Abu Mohjen from Nahr al-Bared camp and his intention to fight the Lebanese Army. Such a retraction cannot be taken into account, however, as it can be interpreted solely as an attempt to refute the charge laid against him.

## **X. The defendant Hani Subhi al-Othman**

The available evidence with regard to the defendant Hani Subhi al-Othman is as follows:

### **1. Evidence adduced from his confession during the preliminary investigation and interrogation**

The defendant Hani al-Othman confessed during the preliminary investigation and interrogation to the acts undertaken, as set forth in the chapter on the facts. He nevertheless retracted the statement he had made to the investigating judge concerning his recruitment of men on behalf of Abu Mohjen and Osbat al-Ansar, denying that he was a member of the latter. This partial retraction, however, cannot be invoked to preclude the use of his confession.

### **2. Evidence adduced from the statement of Badr Tarraf**

Badr Tarraf confessed during the preliminary investigation and interrogation to having been given detonators by Hani al-Othman, who had asked him to keep them for Khadr Maqsoud.

## **XI. The defendant Mohammed Taha Baydoun**

The defendant Mohammed Taha Baydoun confessed during the preliminary investigation and interrogation to the acts he had undertaken, as set forth in the chapter on the facts.

## **XII. The defendant Tariq Ali Ismail**

The defendant Tariq Ali Ismail confessed in his statement during the preliminary investigation and interrogation to the acts he had undertaken, as set forth in the chapter on the facts. He retracted some of his statement before the investigating judge, and there is no explanation for this. The retraction must therefore be dismissed and his statement during the preliminary investigation and interrogation considered sufficient to prove the acts that he perpetrated.

### **XIII. The defendant Bassam Ali Ismail**

The defendant Bassam Ali Ismail confirmed what he had done in his confession during the preliminary investigation and interrogation, as set forth in the chapter on the facts. The security forces seized, from his house and from that of his brother, books, leaflets and declarations that advocated jihad, anti-establishment activities, action against Al-Ahbash, the establishment of an Islamic state and attacks on the Lebanese authorities. The seized items had been given to him by Mounir Aboud.

### **XIV. The defendant Nasser Ismail**

The defendant Mohammed Ismail confessed during the preliminary investigation to having conveyed to Abu Mohjen firearms that the latter had purchased from his brother, the defendant Nasser Ismail, in Nahr al-Bared camp. He further stated that Khaled Hamid had done the same, having purchased a sight for a 16-mm rifle and a cartridge for a [illegible] assault rifle from Nasser Ismail on behalf of Abu Mohjen.

This evidence was corroborated by the fact that the defendant Nasser Ismail absconded and refused to appear before the Judicial Council.

The Council is convinced beyond doubt by the foregoing of the fact that the criminal acts are attributable to the defendants. It follows that the legal definitions of the acts in question stand as given.

## **Chapter VI**

### **The law**

Whereas the acts undertaken by all of the defendants, as set forth in the chapter on the facts and supported by the evidence already cited, form the basis for the following legal conclusions:

#### **I. The defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mu`ti**

##### **1. The offence defined in Article 549 of the Criminal Code**

###### **The defendants Mounir Aboud and Ahmad al-Kasm**

Whereas it has been established that the defendants Mounir Aboud and Ahmad al-Kasm together fired numerous gunshots at Sheikh Nizar al-Halabi, causing fatal injuries. This demonstrates their intention to commit homicide, an act that had been preceded by calm and purposeful preparation, planning, scheming and a determination to execute the plan. It follows that they are perpetrators within the meaning of Article 212 of the Criminal Code and that their act in that regard constitutes the felony of wilful and deliberate homicide defined in and punishable under Article 549 (Article 1) of the Criminal Code.

###### **The defendant Khaled Hamid**

Whereas it has been established that the defendant Khaled Hamid played a major role in the operation to assassinate Sheikh Nizar al-Halabi, since he was commander of the group that executed it, the chief planner and organizer and the link between the defendant and Abu Mohjen. He deliberately recruited several of the other defendants to take part in the operation and arranged, through Abu Mohjen, to obtain the car and weapons used in the offence. He was then present at the scene of the crime with the authors and was armed, watching and lying in wait for Sheikh al-Halabi to emerge. As soon as he saw him, he drove the car with the perpetrators on board and used it to block the path of Sheikh al-Halabi's car, stopping it at a time and place that enabled the two defendants Aboud and Al-Kasm to get out unimpeded and fire immediately at the victim, to kill him and to return immediately to the car, which he then drove off, disappearing with them inside it.

Khaled Hamid thus played a positive and direct role in the activities that produced the criminal result. He is therefore an accomplice to the offence of intentional homicide and is liable to the legal penalty prescribed under Article 213 of the Criminal Code. It follows that his act falls under Article 549 (Article 1) of the Criminal Code.

### **The defendants Rabih Nabah and Wasim Abd al-Mu'ti**

Whereas it has been established that the role of the defendants Rabih Nabah and Wasim Abd al-Mo'ti in the operation to assassinate Sheikh Nizar al-Halabi was, in accordance with the calculated plan, to act as a motorcycle escort to the car carrying the perpetrators and thus to protect them, to monitor Sheikh Nizar al-Halabi's house in order to tell their associates when he came out, in case they missed his exit, and to intervene where necessary to prevent any resistance from his bodyguards or anyone else accompanying him. They therefore aided the defendants Aboud and al-Kasm in the acts that paved the way for and facilitated their perpetration of the offence of intentional homicide. However, their role in that regard did not include direct involvement in executing the offence or in bringing about the elements constituting the offence. They are consequently deemed to be accessories thereto, in accordance with Article 219 (Article 4) of the Criminal Code. Their involvement as accessories, however, was less than provided for in Article 220, paragraph 1, of the Criminal Code. Articles 549 (1)/219 (4) of the Criminal Code are therefore applicable to their act.

Whereas various witnesses during the preliminary investigation stated that they saw the person riding the motorcycle behind the driver – i.e. Rabih Nabah – get off and fire shots towards Sheikh al-Halabi's building or into the air, this remains doubtful in the light of the defendants' confessions regarding their respective roles in the offence, the number of weapons used in its execution and the empty cartridges found at the scene of the incident, which, according to the investigation, were discharged from a Kalashnikov, whereas Rabih Nabah was not carrying a weapon of that type but a pistol and a Skorpion assault rifle.

### **Mitigating circumstances**

Whereas the offence of intentional homicide jointly undertaken by the defendants Mounir Aboud, Ahmad al-Kasm and Khaled Hamid took place on 31 August 1995, the Council is precluded from granting them the mitigating circumstances provided for in Article 253 of the Criminal Code by Article 3 of Act No. 302 of 21 March 1994, which prohibits the granting of any mitigating circumstances to perpetrators when applying Article 549 of the Criminal Code.

## **2. The offence defined in Article 549 of the Criminal Code in conjunction with Article 201 thereof**

### **The defendants Mounir Aboud, Ahmad al-Kasm and Khaled Hamid**

Whereas the defendants Mounir Aboud and Ahmad al-Kasm, when executing, jointly with Khaled Hamid, the operation to assassinate Sheikh Nizar al-Halabi, a premeditated act committed with intent to kill, fired at his bodyguards Ramadan al-Tabash and Nabil al-Dhaw with the aim of preventing them or any other person from impeding execution of the operation, injuring Al-Tabash and al-Dhaw, as well as the minor Bilal al-Halabi, who was in the car with his father, as noted in the description of the facts. The first aid and treatment administered to the injured persons saved their lives.

Whereas the claims of the said three defendants that they had no intent to kill the injured persons Al-Batash, Al-Dhaw and Bilal al-Halabi are legally untenable. By executing the operation to assassinate Sheikh Nizar al-Halabi, they anticipated the possibility of injuring and killing his bodyguards and anyone with him in the car. They therefore foresaw that outcome and accepted the risk, given that the shots fired landed all over the car carrying Sheikh al-Halabi. Furthermore, their surveillance of his movements prior to the assassination operation included surveillance of his bodyguards. During the investigation, Khaled Hamid confirmed that the decision about the numbers required to take part in the operation had taken into account the security arrangements for Sheikh Nizar al-Halabi, which naturally included the number of his bodyguards. This proves the existence of probable intent among the defendants to occasion injuries to Sheikh al-Halabi's bodyguards and his son Bilal, as stipulated in Article 189 of the Criminal Code.

Whereas the shooting and injury of Sheikh Nizar al-Halabi's two bodyguards and son were intended to ensure that the operation to kill the Sheikh was unimpeded and unopposed, in keeping with the provisions of Article 549, Article 2, of the Criminal Code.

Whereas the defendants Aboud, Al-Kasm and Hamid, notwithstanding their completion of all the acts aimed at perpetrating the offence against the bodyguards and Bilal al-Halabi, failed to produce the outcome for reasons beyond their control.

Whereas the act of the defendants Mounir Aboud, Ahmad al-Kasm and Khaled Hamid in this regard constitutes the offence of abortive homicide, perpetrated to facilitate the operation to assassinate Sheikh Nizar al-Halabi, to which Articles 549 (2)/212 of the Criminal Code are applicable in the case of the defendants Aboud and al-Kasm and Articles 549 (2)/213 in the cases of the defendant Khaled Hamid, all in conjunction with Article 201 of the Code.

#### **The defendants Rabih Nabah and Wasim Abd al-Mu'ti**

Whereas the abetment of an abortive offence, such as abetment of an attempt, is punishable when the acts of abetment have been completed, for instance when the perpetrator has completed all of the acts aimed at perpetration of the offence but they produce no result owing to extraneous circumstances.

If the perpetrator, in carrying out his act, exceeded the outcome agreed with his accessories, the abetment still stands and is punishable in terms of the actual outcome if it is directly linked to the agreed offence, suggested itself to the accessory or was expected to occur.

Whereas the defendants Rabih Nabah and Wasim Abd al-Mo'ti, when acting as accessories to the offence of the intentional homicide of Sheikh Nizar al-Halabi, foresaw that its execution was likely to result in injury to his bodyguards or anyone accompanying him, since their role included keeping watch in order to prevent their two associates Aboud and Al-Kasm from meeting any resistance when carrying out the shooting.

Whereas the defendants Rabih Nabah and Wasim Abd al-Mo'ti, by thus acting as accessories to the offence of the intentional homicide of Sheikh al-Halabi, also acted as

accessories to the abortive offence that was directly linked to the first offence and was foreseen by them, i.e. the shooting and injuring of Al-Halabi's bodyguards and son. The latter did not die as a consequence owing to circumstances beyond the control of the perpetrators, whose aim had been to facilitate the unimpeded execution of the operation to assassinate Sheikh al-Halabi.

Whereas their act in this regard constitutes the offence defined in and punishable under Articles 549 (Article 2)/219 (Article 4) of the Criminal Code, both in conjunction with Article 201 thereof.

**3. Offence defined in Article 549 of the Criminal Code in conjunction with Article 200 thereof**

Whereas prior to the successful operation to assassinate Sheikh Nizar al-Halabi on 31 August 1995, the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti jointly attempted to kill him on three occasions, the first in early April 1995, the second 10 days thereafter, in which Rabih Nabah was not involved, and the third on the evening of 30 August 1995. They planned these three operations, prepared weapons, kept watch on Sheikh al-Halabi and divided their roles after his ambush, as described in the chapter on the facts and substantiated by evidence. However, Sheikh al-Halabi failed to pass the spot where they were lying in wait, thereby preventing the perpetrators from achieving the desired outcome, even though they commenced the acts that were directly aimed at perpetrating the offence.

Whereas their abandonment of execution at the time was not voluntary or based on their own free will but was attributable to extraneous circumstances in that Sheikh Nizar al-Halabi's escort failed to pass the place where they lay in wait for him.

Whereas the statement by some of the defendants that the first and second attempts were equivalent to manoeuvres and exercises prior to execution of the actual operation are contradicted and refuted by the statement of the defendant Khaled Hamid before the investigating judge that he and his associates were determined at the time to kill Sheikh Nizar al-Halabi and that he had not described the operation to them as an exercise until after it had failed, a ruse to prevent them from yielding to despair.

Whereas the act of the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm and Wasim Abd al-Mo'ti pertaining to the attempted intentional homicide of Sheikh Nizar al-Halabi on three successive occasions and, in the case of Rabih Nabah, on two occasions, as described in the chapter on the facts, constitutes the offence defined in Articles 549 (1)/213 of the Criminal Code, both in conjunction with Article 200 thereof.

**4. Offences defined in Articles 4 and 5 of the Act of 11 January 1958**

Whereas Article 4 of the Act of 11 January 1958 stipulates that, for its provisions to be applicable, the perpetrator must form part of an armed gang created with a view to executing the acts specifically defined in Articles 2 and 3 of the said Act, the aims of which are an attack or attempted attack made with a view to fuelling civil war or sectarian strife, invasion of a town or

conurbation, encroachment on public or private property, or resisting armed forces operating against the perpetrators of such offences,

Whereas the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti were either members or supporters of Osbat al-Ansar, there is nothing in the documents to suggest that such membership was aimed at achieving one of the purposes specified in Articles 2 and 3 of the Act of 11 January 1958. There is no evidence that they intended to promote conflict among the country's various social, political and confessional groups with the aim of sowing dissension and discord among the people of a single nation, facilitating the invasion of towns or encroachment on property, or attacking or resisting armed forces operating against the perpetrators of such offences. The fact that they and the group that they supported were convinced of the need to establish an Islamic state and that jihad should be used as a means to that end is a matter that falls within the realm of freedom of thought and belief. The tours of Hamra Street by Khaled Hamid and Mounir Aboud with a view to listing cafés and night clubs to be blown up remained at the planning level and was never translated into either inchoate or completed action. No element of crime can therefore be based on it. The aim of the homicide of Sheikh al-Halabi was simply to eliminate him personally owing to the hostility they felt towards him and his group because they disagreed with his religious ideas and his interpretation of the Quran and to prevent him from assuming office as the Grand Mufti of the Republic. There is nothing to suggest that their actions in that regard were aimed at achieving any of the aims cited in Articles 2 and 3 of the Act of 11 January 1958. Their motive remained confined to the context of their narrow and selfish personal interests, and did not reach the point of constituting a comprehensive public danger to the nation, which Article 4 of the Act of 11 January 1958 was designed to deter by making it a punishable criminal offence,

Whereas the elements of Article 4 of the Act of 11 January 1958 have not been fulfilled in respect of these persons, they must be absolved of responsibility in this regard.

The elements of Article 5 of the Act of 11 January 1958 are also incomplete with respect to the said defendants for the reasons given above. Moreover, there is no suggestion that their act was aimed at the perpetration of any offence against the state mentioned in this article and they must therefore also be absolved of responsibility in that regard.

#### **5. Offence defined in Article 6 of the Act of 11 January 1958**

Whereas Article 6 of the Act of 11 January 1958 punishes all terrorist acts.

Whereas Article 314 of the Criminal Code defines terrorist acts as all acts aimed at creating a state of panic and committed by such means as explosive devices, inflammable materials, toxic or corrosive products and infectious or microbial agents that are liable to cause a public danger.

While it is true that the actions of the defendants Hamid, Aboud, Al-Kasm, Nabah and Abd al-Mo'ti pertaining to the homicide of Sheikh Nizar al-Halabi were liable to cause a state of panic in view of the Sheikh's religious and social standing and the fact that the offence was

committed in broad daylight in a street full of residents, shopkeepers and pedestrians, the offence was not committed by any of the means listed in Article 314.

Whereas the said defendants must be acquitted of the offence defined in Article 6 of the Act of 11 January 1958 inasmuch as its elements have not been fulfilled.

**6. Offence defined in Article 72 of the Weapons Act**

Whereas it has been established by the facts corroborated by the evidence adduced that the defendants Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti unlawfully carried and used firearms. Their act accordingly constitutes the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 concerning arms and ammunition.

**II. The defendants Raed al-Rifaii and Khadr Maqsoud**

**1. Offence defined in Article 549 of the Criminal Code in conjunction with article 200**

Whereas it has been established that the defendant Raed al-Rifaii was complicit in the attempted intentional homicide of Sheikh Nizar al-Halabi in early April 1995 and in the second attempt that followed 10 days later, as described in the chapter on the facts, the desired outcome having been precluded by circumstances beyond his control, namely the failure of Sheikh al-Halabi to pass by the spot where he was to be ambushed.

Whereas his act in this regard constitutes the felony of attempted intentional homicide defined under Articles 549 (1)/213 of the Criminal Code, both in conjunction with Article 200 thereof.

Whereas it has also been established that the defendant Khadr Maqsoud was complicit in the second attempt to kill Sheikh Nizar al-Halabi, as described in the chapter on the facts, and that he was aware that the operation was aimed at killing Sheikh al-Halabi, the desired outcome having been precluded by the extraneous circumstances already mentioned.

Whereas his act in this regard constitutes the felony of attempted intentional homicide defined in Articles 549 (1)/213 of the Criminal Code, both in conjunction with Article 200 thereof.

**2. Offences defined in Articles 4, 5 and 6 of the Act of 11 January 1958**

Whereas the elements of the offences defined in Articles 4, 5 and 6 of the Act of 11 January 1958 have not been met in the case of the defendants Raed al-Rifaii and Khadr Maqsoud for the reasons already stated.

Whereas they must be absolved of responsibility in this regard.

### **3. Offence defined in Article 72 of the Weapons Act**

Whereas it has been established that the defendants Raed al-Rifaii and Khadr Maqsoud unlawfully possessed and carried firearms, that they underwent training in their use and that they were armed during the attempt to assassinate Sheikh Nizar al-Halabi.

Whereas their act in this regard constitutes the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 concerning arms and ammunition.

### **III. The defendant Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen**

#### **1. Offences defined in Articles 549, 549/201 and 549/200 of the Criminal Code**

Whereas it has been established that the defendant Ahmad Abd al-Karim al-Saadi premeditated the homicide of Sheikh Nizar al-Halabi and instructed the defendants Khaled Hamid, Mounir Aboud and Ahmad al-Kasm to execute the offence, imbuing them with the criminal intent, inciting them to commit the offence of homicide, and supplying them with weapons, ammunition and the car used to that end.

Whereas the conduct of the defendant Ahmad Abd al-Karim al-Saadi in this regard constitutes the offence of incitement to intentional homicide, a felony defined in Article 549 (1) of the Criminal Code in conjunction with Articles 217 and 218, paragraph 1, thereof.

Whereas it is incorrect to argue that his act in this regard constitutes criminal complicity, using a term such as mastermind, since the Lebanese Criminal Code specifically defines such an act as incitement, which is a separate offence involving different legal elements from criminal complicity.

Furthermore,

Whereas, in the case of the abortive offence perpetrated against Sheikh Nizar al-Halabi's bodyguards, Ramadan al-Tabash and Nabil al-Dhaw, and his son Bilal al-Halabi, the probable intent requirement is met in the case of the defendant Al-Saadi for the reasons already stated with regard to the other defendants Aboud, al-Kasm and Hamid, particularly since Abu Mohjen, according to the investigation, knew that Sheikh Nizar al-Halabi was protected by bodyguards, Khaled Hamid having informed him of the circumstances in which the attempts preceding the assassination had been conducted, including the fact that al-Halabi was protected by bodyguards, a circumstance that was taken into account in planning the offence.

Whereas the defendant Ahmad Abd al-Karim al-Saadi, when inciting the other defendants to carry out the assassination of al-Halabi, foresaw the possibility that his bodyguards and anyone else accompanying him would be injured, found that outcome acceptable and resolved to incite them to execute the operation.

Whereas his act therefore constitutes the felony defined in Articles 549 (paragraph 2)/217 and 218 (paragraph 1) of the Criminal Code in conjunction with Article 201 thereof.

Whereas the incitement by the defendant Ahmad Abd al-Karim al-Saadi gave rise to three attempts to assassinate Sheikh Nizar al-Halabi prior to the successful operation, as previously stated.

Whereas, pursuant to Article 218 of the Criminal Code, a person who incites an offence is liable to punishment for the offence that he wished to have perpetrated, whether it was executed, inchoate or abortive.

Whereas the act of the defendant Ahmad Abd al-Karim al-Saadi in respect of the said three attempts constitutes the felony defined in Articles 459 (paragraph 1)/217 and 218, paragraph 1, of the Criminal Code, in conjunction with Article 200 thereof.

## **2. Offences defined in Articles 2, 4, 5 and 6 of the Act of 11 January 1958**

Whereas the indictment decision charges the defendant Ahmad Abd al-Karim al-Saadi with directing Osbat al-Ansar to attack and resist the army in order to prevent it from entering his headquarters at the Ain al-Helweh camp and from arresting him after the operation to assassinate Sheikh Nizar al-Halabi and the identification of its perpetrators, concluding that Article 2 of the Act of 11 January 1958 is applicable to this act;

Whereas, contrary to the terms of the indictment decision, the defendant's act in this regard, if the elements are met, falls under Article 3 of the Act of 11 January 1958 and not under Article 2, which is not applicable to the circumstances in question.

Whereas, in order to meet the elements of Article 3 of the Act of 11 January 1958, the group must have been established with the aim of attacking or resisting armed forces operating against the perpetrators of an offence defined in the article.

Whereas Osbat al-Ansar, which is led by the defendant Ahmad al-Saadi, came into being before the date on which the army besieged Ain al-Helweh camp in order to arrest him, and whereas the group's establishment cannot therefore be linked to the aim of resisting armed forces operating against the perpetrators of offences defined in Article 3 of the Act of 11 January 1958, the elements of the latter article have not been met in that regard.

Whereas the presence of the elements of Articles 4 and 5 of the Act of 11 January 1958 presupposes that the armed gang was formed with the intention of achieving one of the aims specified in Articles 2 and 3 of the said Act or any other offence against the state.

Whereas none of the findings of the investigation suggests that Osbat al-Ansar was established for the purpose of achieving any of the aims referred to in the said two articles for the reasons mentioned in connection with the offences attributed to Khaled Hamid and his associates in this context.

With regard to the firearms training provided by the defendant Ahmad al-Saadi to the members of Osbat al-Ansar, this also constitutes insufficient evidence that its purpose was to achieve one of the said aims.

Whereas the elements of Articles 4 and 5 of the Act of 11 January 1958 have not been met with regard to the defendant Ahmad Abd al-Karim al-Saadi.

Whereas, with respect to the charge against the said defendant based on Article 6 of the Act of 11 January 1958, the investigation yielded no evidence of his involvement in any terrorist act such as that defined in Article 314 of the Criminal Code. It follows that the elements of Article 6 have not been met for the reasons already stated with respect to Khaled Hamid and his associates in the same context.

Whereas the defendant Ahmad Abd al-Karim al-Saadi must be acquitted of the offences defined in Articles 2, 3, 4, 5 and 6 of the Act of 11 January 1958, as their elements have not been met.

### **3. Offence defined in Article 72 of the Weapons Act**

Whereas it has been established that the defendant Ahmad al-Karim al-Saadi handled firearms by unlawfully purchasing, storing, using and carrying them, as stated in the chapter on the facts. His act in this regard constitutes the offence defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 concerning arms and ammunition.

## **IV. The defendants Mohammed Ali al-Saghir, Jamil Ibrahim Hamoud, Mohammed Ali Abla, Haytham Mohammed Hamad, Maher Mohammed Hamad, Bassam Ali Ismail, Mohammed Ahmad Ismail, Hani Subhi al-Othman, Nasser Ahmad Ismail, Tariq Ali Ismail, Mohammed Rashad al-Hawi and Mohammed Taha Baydoun**

### **1. Offences defined in Articles 4, 5 and 6 of the Act of 11 January 1958**

Whereas it has not been established that the said defendants were all members of Osbat al-Ansar.

Whereas, in any event, the offences with which they are charged under Articles 4, 5 and 6 of the Act of 11 January 1958 have not been proven for the reasons already stated with respect to the defendant Khaled Hamid and his associates and the defendant Ahmad Abd al-Karim al-Saadi.

### **2. Offences defined in Article 2 of the Act of 11 January 1958 with respect to the defendants Haytham Hamad, Maher Hamad and Mohammed Ahmad Ismail**

Whereas the indictment decision lays the same charges against these defendants as against the defendant Ahmad Abd al-Karim al-Saadi with respect to their joint action with Osbat al-Ansar for the purpose of attacking and resisting armed forces seeking to arrest the latter.

Whereas, as already stated, Article 2 of the Act of 11 January 1958 contains no definition of a criminal offence corresponding to the charge laid against the defendants in this context, inasmuch as any such criminal offence would fall under Article 3 of the Act of 11 January 1958.

Whereas the elements of Article 3 have not been met with respect to the defendants Haytham Hamad, Maher Hamad and Mohammed Ahmad Ismail for the reasons stated with respect to the defendant Ahmad Abd al-Karim al-Saadi.

Whereas they must be absolved of responsibility under both Article 2 and Article 3 of the Act of 11 January 1958.

### **3. Offence defined in Article 72 of the Weapons Act**

Whereas it has been established that the defendants Mohammed Ali Mustafa al-Saghir, Jamil Hamoud, Hani al-Othman, Mohammed Taha Baydoun, Tariq Ali Ismail and Bassam Ali Ismail unlawfully carried or used firearms and underwent training and exercises with the firearms in question.

Whereas it has been established that the defendants Mohammed Rashad al-Hawi and Mohammed Ali Abla also underwent training with such firearms and concealed other firearms on behalf of Khaled Hamid.

Whereas the defendant Mohammed Ahmad Ismail conveyed firearms from Nahr al-Bared camp to Ain al-Helweh camp on behalf of Abu Mohjen, having procured them from the defendant Nasser Ismail, who had sold other firearms to Khaled Hamid. The defendant Mohammed Ismail also participated in groups equipped with firearms and bombs that monitored the movements of the Lebanese Army surrounding Ain al-Helweh camp in order to offer resistance should it attempt to enter the camp.

Whereas it has been established that the defendant Haytham Hamad was a member of these armed groups that set up fighting positions around Abu Mohjen's headquarters to prevent the army from reaching it. This is also true of the defendant Maher Hamid, who had firearms training and carried firearms to prevent the army from entering the camp.

Whereas the act of the defendants Mohammed Ali Mustafa al-Saghir, Jamil Hamoud, Hani al-Othman, Mohammed Taha Baydoun, Tariq Ali Ismail, Bassam Ali Ismail, Mohammed Rashad al-Hawi, Mohammed Ali Abla, Mohammed Ahmad Ismail, Nasser Ismail, Haytham Hamad and Maher Hamad involving the unlawful handling, carrying and use of weapons constitutes the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 concerning arms and ammunition.

**V. Application of the Public Prosecutor's Office to apply the provisions of Article 7 of the Act of 11 January 1958 and Articles 301, 303 and 304 of the Criminal Code**

Whereas the Public Prosecutor's Office at the Court of Cassation, in its pleadings before the Council, called for the application of the said articles to the defendants.

Whereas the Judicial Council is restricted to established facts referred to it the indictment decision and has no jurisdiction to deal with other facts unrelated to the content of the said decision. It has discretionary authority to apply the legal characterization that it deems appropriate to the facts in respect of which the defendants are referred to it, even if it differs from the characterization contained in the indictment decision.

Whereas the indictment decision did not charge the defendants with the offences defined in Article 7 of the Act of 11 January and Articles 301, 303 and 304 of the Criminal Code, the definitions contained in the articles invoked by the Public Prosecutor's Office in its pleadings are not applicable to the acts with which the defendants are charged.

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**Chapter VII**  
**Personal compensation**

**I. The Association of Islamic Philanthropic Projects as plaintiff**

Whereas this Association has the status of a legal person and is licensed under Act No. 995 of 10 June 1930 concerning knowledge and expertise, and whereas the victim Sheikh Nizar al-Halabi was its President, it is deemed to have suffered moral injury as a result of his assassination and must be compensated. Its counsel claimed token compensation of one Lebanese pound, which is hereby granted and awarded jointly and severally against Ahmad al-Saadi, Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Mo'ti.

**II. Ms. Aisha Saad and Ms. Hibah al-Dhahabi, heirs of Sheikh al-Halabi**

Whereas Ms. Aisha Saad, the mother of the victim Sheikh al-Halabi, and Ms. Hibah, his widow, are deemed to have suffered material and moral injury as a result of his homicide, and whereas his minor sons and heirs, Mohammed, Bilal and Wasim al-Halabi, also suffered injuries, their claim is hereby granted, namely token compensation of one Lebanese pound, and awarded jointly and severally against the above-mentioned persons.

**III. The plaintiffs Nabil al-Dhaw and Ramadan al-Tabash**

Whereas Nabil al-Dhaw's neck was injured by shrapnel that could not be removed, so that he was incapacitated for 10 days, he is hereby granted for this injury the token compensation that he claimed, amounting to one Lebanese pound, which is awarded against the above-mentioned defendants.

Whereas the plaintiff Ramadan al-Tabash suffered three critical bullet wounds and was incapacitated for three months, the Council hereby decides to set the compensation payable to him for his injuries at 20 million Lebanese pounds, which is awarded jointly and severally against Ahmad al-Saadi and his five aforementioned associates.

## **Chapter VIII**

### **Sentencing**

For all of the foregoing reasons, the Judicial Council, pursuant to its decision of 22 May 1996 to reject the plea of non-jurisdiction, unanimously decides:

1. To dismiss the plea that the preliminary investigation and interrogation procedures were invalid, to reject the application to hear additional witnesses and to reject the application to open the trial;
2. To acquit the defendants Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, Khaled Hamid, Mounir Salih Aboud, Ahmad Munthir al-Kasm, Wasim Mohammed Abd al-Mo'ti, Rabih Mohammed Nabah, Mohammed Ali Mustafa al-Saghir, Raed Mohammed al-Rifaii, Khadr Youssef Maqsoud, Jamil Ibrahim Hamoud, Mohammed Ali Abla, Tariq Ali Ismail, Bassam Ali Ismail, Hani Subhi al-Othman, Nasser Ahmad Ismail, Mohammed Taha Baydoun, Mohammed Rashad Ahmad al-Hawi, Haytham Mohammed Hamad, Maher Mohammed Hamad and Mohammed Ahmad Ismail of the offences defined in Articles 4, 5 and 6 of the Act of 11 January 1958;
3. To acquit the defendants Ahmad Abd al-Karim al-Saadi, Haytham Mohammed Hamad, Maher Mohammed Hamad and Mohammed Ahmad Ismail of the offences defined in Articles 2 and 3 of the Act of 11 January 1958;
4. (a) To convict the defendants Mounir Salih Aboud and Ahmad Munthir al-Kasm of the homicide of Sheikh Nizar al-Halabi, pursuant to Articles 549 (1)/212 of the Criminal Code, and to sentence them to death;
- (b) To convict them of the abortive offence against Ramadan al-Tabash, Nabil al-Dhaw and Bilal al-Halabi, pursuant to Articles 549 (2)/213 of the Criminal Code, both in conjunction with Article 200 thereof, and to sentence them to hard labour for life;
- (c) To convict them of the three cases of attempted homicide of Sheikh al-Halabi, pursuant to Articles 549 (1)/213 of the Criminal Code, both in conjunction with Article 200 thereof, and to sentence them to 20 years' hard labour for each attempt;
- (d) To convict them of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence each of them accordingly to a two-year term of imprisonment;
- (e) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the death penalty, being the harshest penalty, shall be enforced against both;

5. (a) To convict the defendant Khaled Mohammed Hamad of complicity in the homicide of Sheikh Nizar al-Halabi, pursuant to Articles 549 (1)/213 of the Criminal Code, and to sentence him to death;

(b) To convict him of the abortive offence against Ramadan al-Tabash, Nabil al-Dhaw and Bilal al-Halabi, pursuant to Articles 549 (2)/213 of the Criminal Code, both in conjunction with Article 200 thereof, and to sentence him to hard labour for life;

(c) To convict him of the three cases of attempted homicide of Sheikh al-Halabi, pursuant to Articles 549 (1)/213 of the Criminal Code, both in conjunction with Article 200 thereof, and to sentence him to 20 years' hard labour for each attempt;

(d) To convict him of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence him accordingly to a two-year term of imprisonment;

(e) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the death penalty, being the harshest penalty, shall be enforced against him;

6. (a) To convict the defendants Rabih Mohammed Nabah and Wasim Mohammed Abd al-Mo'ti of acting as accessories to the homicide of Sheikh Nizar al-Halabi, pursuant to Articles 549 (1)/219 (4) of the Criminal Code, both in conjunction with Article 220, paragraph 2, thereof, and to sentence them to hard labour for life;

(b) To convict them of acting as accessories in the abortive offence against Ramadan al-Tabash, Nabil al-Dhaw and Bilal al-Halabi, pursuant to Articles 549 (2)/219 (4) of the Criminal Code, in conjunction with Articles 201 and 220, paragraph 2, thereof, and to sentence them to 20 years' hard labour;

(c) To convict them of complicity in the three cases of attempted homicide of Sheikh al-Halabi, pursuant to Articles 549 (1)/213 of the Criminal Code, in conjunction with Article 200 thereof, and to sentence them to 20 years' hard labour for each attempt;

(d) To convict them of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence each of them accordingly to a two-year term of imprisonment;

(e) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the penalty of hard labour for life, being the harshest penalty, shall be enforced against both;

7. (a) To convict the fugitive defendant, Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, of incitement to kill Sheikh Nizar al-Halabi, pursuant to Article 549 (1) of the Criminal Code, in conjunction with Articles 217 and 218, paragraph 1, thereof, and to sentence him to death;

(b) To convict him of incitement to the failed offence against Ramadan al-Tabash, Nabil al-Dhaw and Bilal al-Halabi, pursuant to Articles 549 (2) / 217 and 218, paragraph 1, of the Criminal Code, in conjunction with Article 201 thereof, and to sentence him to hard labour for life;

(c) To convict him of incitement in the three cases of attempted homicide of Sheikh al-Halabi, pursuant to Articles 549 (1)/217 and 218 (1) of the Criminal Code, in conjunction with Article 200 thereof, and to sentence him to 20 years' hard labour for each attempt;

(d) To convict him of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence him accordingly to a three-year term of imprisonment;

(e) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the death penalty, being the harshest penalty, shall be enforced against him;

8. (a) To convict the defendant Khadr Youssef Maqsoud of complicity in one case of attempted homicide of Sheikh Nizar al-Halabi, pursuant to Article 549 (1)/213 of the Criminal Code, in conjunction with Article 200 thereof, to sentence him to 10 years' hard labour and to commute the sentence, on the basis of Article 25 of the Criminal Code, to five years' hard labour;

(b) To convict him of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence him accordingly to a two-year term of imprisonment;

(c) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the penalty of five years' hard labour, being the harshest penalty, shall be enforced against him;

9. (a) To convict the fugitive defendant, Raed Mohammed al-Rifaii, of complicity in two cases of attempted homicide of Sheikh Nizar al-Halabi, pursuant to Article 549 (1)/213 of the Criminal Code, in conjunction with Article 200 thereof, and to sentence him to 20 years' hard labour for each of the two attempts;

(b) To convict him of the misdemeanour defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence him accordingly to a two-year term of imprisonment;

(c) To order the sentences to run concurrently, in accordance with Article 205 of the Criminal Code; it follows that the penalty of hard labour for a period of 20 years, being the harshest penalty, shall be enforced against him;

10. To convict the defendants Jamil Ibrahim Hamoud, Mohammed Ali Abla, Haytham Mohammed Hamad, Maher Mohammed Hamad, Bassam Ali Ismail, Mohammed Ahmad Ismail,

Hani Subhi al-Othman, Tariq Ali Ismail, Mohammed Rashad al-Hawi and Mohammed Taha Baydoun of the misdemeanour relating to unlicensed firearms defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959 and to sentence each accordingly to a two-year term of imprisonment;

11. To convict the defendant Mohammed Ali Mustafa al-Saghir of the misdemeanour relating to unlicensed firearms defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959, to sentence him accordingly to a two-year term of imprisonment and to commute the sentence, pursuant to Article 5, paragraph 4, of Legislative Decree No. 119 of 16 September 1983, to a one-year term;

12. To convict the fugitive defendant, Nasser Ahmad Ismail of the misdemeanour relating to handling and dealing in unlicensed firearms defined in Article 72, as amended, of Legislative Decree No. 137 of 12 June 1959, and to sentence him accordingly to a three-year term of imprisonment;

13. To order each defendant convicted of offences under Article 72 (Weapons Act) to surrender an assault rifle and pistol within one month of being notified of this decision, on pain of payment of double their price, amounting to 600,000 Lebanese pounds, and of one day's imprisonment for every 5,000 Lebanese pounds in the event of non-payment;

14. To order Ahmad Abd al-Karim al-Saadi, also known as Abu Mohjen, Khaled Hamid, Mounir Aboud, Ahmad al-Kasm, Rabih Nabah and Wasim Abd al-Karim, jointly and severally, to pay one Lebanese pound to each of the civil plaintiffs, namely the Association for Islamic Philanthropic Projects, Aisha Saad, Hibah al-Dhahabi, Mohammed, Salim and Bilal al-Halabi, and Nabil al-Dhaw, and 20 million Lebanese pounds to the civil plaintiff Ramadan al-Tabash;

15. To confiscate the criminal items and weapons seized;

16. To dismiss the applications and testimony that are unrelated to this judgement;

17. To declare those convicted jointly liable for all costs.

Judgement delivered in absentia with respect to Ahmad Abd al-Karim al-Saadi, Nasser Ahmad Ismail and Raed Mohammed al-Rifaii and adversarially with respect to all other parties.

Riyashi	Zein	Al-Moallem	Harmouch	Kheirallah
Member	Member	Member	Member	President
(Signed)	(Signed)	(Signed)	(Signed)	(Signed)

This decision was issued pursuant to a separate report on 17 January 1997.

Clerk	President
(Signed)	(Signed)