

The Pre-Trial Judge



Le Juge de la mise en état

المحكمة الخاصة بلبنان
SPECIAL TRIBUNAL FOR LEBANON
TRIBUNAL SPÉCIAL POUR LE LIBAN

THE PRE-TRIAL JUDGE

Case No.: STL-11-01/I
Before: Mr Daniel Fransen
Registrar: Mr Herman von Hebel
Date: 28 June 2011
Original: French
Type of document: Confidential

**WARRANT TO ARREST MR SALIM JAMIL AYYASH
INCLUDING TRANSFER AND DETENTION ORDER**

Office of the Prosecutor:
Mr Daniel A. Bellemare, QC

The authorities of the Lebanese Republic

The authorities of the Kingdom of the Netherlands



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ORDER OF 16 AUGUST 2011

NOTING the motion of 6 May 2011 of the Prosecutor of the Special Tribunal for Lebanon (the “Prosecutor” and the “Tribunal”) requesting the Pre-Trial Judge, pursuant to Article 18 (2) of the Statute of the Tribunal (the “Statute”) and to Rules 68 (J) (i), 76, 77 (A), 79 and 101 (G) of the Rules of Procedure and Evidence of the Tribunal (the “Rules”), to issue: (i) upon confirmation of the indictment, an arrest warrant and order to transfer Mr Salim Jamil Ayyash (the “Accused” or “Mr Ayyash”) to the Tribunal; (ii) an order for his detention in the detention facility of the Tribunal in the Kingdom of the Netherlands; and (iii) an order authorising the redaction of the indictment with a view to its service specifically to the Accused by only referring to the charges laid against him;¹

NOTING the additional submission of the Prosecutor of 21 June 2011 in support of his motion of 6 May 2011 containing the suggested redaction of the indictments and materials relating to the Accused² together with that of 24 June 2011, containing the final suggested redacted indictments;³

NOTING the decision of the Pre-Trial Judge of 28 June 2011 relating to the indictment of 10 June 2011 issued against the Accused (the “Indictment”);⁴

CONSIDERING that Mr Ayyash is accused of:

1. conspiracy aimed at committing a terrorist act, as a co-perpetrator;
2. committing a terrorist act, as a co-perpetrator;
3. intentional homicide of Rafiq Hariri, as a co-perpetrator;
4. intentional homicide of 21 persons in addition to Rafiq Hariri, as a co-perpetrator;
5. attempted intentional homicide of 231 persons, as a co-perpetrator;

NOTING Article 18 (2) of the Statute and Rules 68 (J) (i), 77 (A) and 79 (A) of the Rules, according to which the Pre-Trial Judge may, upon request of the Prosecutor, issue a warrant of

¹ Case No. STL-11-01/I/PTJ, Combined Motion of the Prosecutor [...] Motions in the Event of Confirmation of the Indictment Pursuant to Rules 74, 77 and 79, 6 May 2011 (the “Prosecutor’s Motion”).

² Case No. STL-11-01/I/PTJ, Submission of Additional Material in Support of Motion for Arrest Warrants in Combined Motion of the Prosecutor dated 6 May 2011, 21 June 2011.

³ Case No. STL-11-01/I/PTJ, Submission of Redacted Indictments (English Language), 24 June 2011.

⁴ Case No. STL-11-01/I, Decision Relating to the Examination of the Indictment of 10 June 2011 Issued Against Mr Salim Jamil Ayyash [...], 28 June 2011 (the “Decision Relating to the Indictment”).

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arrest against the Accused and request his transfer to the Tribunal in order to: (i) ensure his appearance at the proceedings; (ii) ensure that he does not obstruct or endanger the investigation or the court proceedings, for instance by posing a danger to, or intimidating, any victim or witness; and (iii) prevent criminal conduct of a kind of which he stands accused;

CONSIDERING that, assuming the allegations made against the Accused are substantiated, on the basis of the information provided by the Prosecutor, the detention of the Accused is necessary, in particular for the following reasons:

1. Mr Ayyash is accused of serious offences, in particular, of conspiracy aimed at committing a terrorist act, of committing a terrorist act and of intentional homicide with premeditation;
2. The risk that Mr Ayyash might commit further offences of the same kind is substantiated given that he might be implicated in other acts of a similar nature in Lebanon;
3. The risk that Mr Ayyash might escape justice is proven insofar as he is being prosecuted by this Tribunal for having participated in a conspiracy, one of the aims of which was precisely to escape justice;
4. The risk that Mr Ayyash might obstruct the smooth running of the investigation, in particular, by endangering or intimidating potential witnesses, in person or by way of others, is proven insofar as acts of this kind are purported to have already occurred during the investigations conducted by the Prosecutor; and
5. The risk that Mr Ayyash might collude with other persons possibly implicated in the acts imputed to him exists given that all the alleged perpetrators or accomplices of these acts have not yet been identified or, *a fortiori*, arrested;

CONSIDERING that in light of the above, the risks of collusion, escaping justice, committing further offences, endangering the ongoing investigation and intimidating witnesses and victims or tampering with evidence exist and justify that an arrest warrant and order to transfer be issued by the Tribunal against the Accused;

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NOTING Rule 76 (A) of the Rules, according to which the Indictment shall be formally provided to the authorities of the State in whose territory the Accused was last known to be residing or in whose territory or under whose jurisdiction he is believed likely to be found;

CONSIDERING that, according to the Prosecutor, the Accused was last known to be residing in the territory of the Lebanese Republic;⁵

NOTING Article 15 (2) of the Agreement between the United Nations and the Lebanese Republic which entered into force on 10 June 2007 following the adoption of resolution 1757 (2007) (the “Agreement between the United Nations and the Lebanese Republic”), and Rule 82 (A) of the Rules, according to which the competent authorities of the Lebanese Republic shall act promptly and with all due diligence to ensure the proper execution of a warrant of arrest or of a transfer order;

NOTING Article 39 of the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon of 21 December 2007 (the “Agreement between the United Nations and the Kingdom of the Netherlands”), according to which the transfer of a detained person “from the point of arrival in the host State to the premises shall, at the request of the Tribunal, be carried out by the competent authorities in consultation with the Tribunal”;

NOTING Rules 83 and 101 (G) of the Rules, according to which, after his arrest, “the accused shall be detained by the State concerned, which shall promptly notify the Registrar” and “the transfer [...] of the accused to a detention facility of the Tribunal shall be arranged between the State authorities concerned, the Registrar and, if necessary, the authorities of the Host State”;

CONSIDERING that the Pre-Trial Judge deems founded the Prosecutor’s request for redaction of the Indictment with a view to its service specifically to the Accused by only

⁵ Prosecutor’s Motion, para. 35.

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referring to the charges laid against him in order to limit the risk of escaping justice, further offences, collusion and endangering the ongoing investigations;⁶

CONSIDERING that, in accordance with the Decision Relating to the Indictment, neither the Indictment, nor the warrant of arrest should be disclosed before the effective arrest of Mr Ayyash, except to the authorities of the Lebanese Republic and to the authorities of any other State to which the Prosecutor might transmit the Indictment pursuant to Rule 74 (B) of the Rules.

FOR THESE REASONS,

IN APPLICATION of Article 18 (2) of the Statute, Article 15 (2) of the Agreement between the United Nations and the Lebanese Republic, Article 39 of the Agreement between the United Nations and the Kingdom of the Netherlands and Rules 68 (J) (i), 76, 77 (A), 79, 82, 83 and 101 (G) of the Rules,

THE PRE-TRIAL JUDGE:

REQUESTS the competent authorities of the Lebanese Republic to search for and to arrest, in any place where he might be found in the territory of the Lebanese Republic, to detain and transfer to the Headquarters of the Tribunal:

SALIM JAMIL AYYASH, born on 10 November 1963 in Harouf, Nabatiyeh, Lebanon, son of Jamil Dakhil AYYASH (father) and of Mahasen Issa SALAMEH (mother), residing notably at Al-Jamous Street, Tabajah building, Hadath, 3rd floor in South Beirut, and at the AYYASH family compound in Harouf, Nabatiyeh in South Lebanon, a citizen of Lebanon, Lebanese civil registration number 197/Harouf, holder of Hajj passport number 059386 and social security number 63/690790.

⁶ Prosecutor's Motion, para. 43.

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ORDERS the Registrar of the Tribunal to transmit to the competent authorities of the Lebanese Republic, in accordance with Rule 82 of the Rules, (1) the present order, (2) a certified copy, bearing the official seal of the Tribunal, of the Indictment as confirmed by the Pre-Trial Judge, in accordance with Rule 68 (K) of the Rules, after redaction by the Prosecutor of any information which does not relate to the Accused, (3) the additional materials filed by the Prosecutor which enable the Accused to be identified and (4) a copy of the statutory provisions and rules that are relevant to the execution of this arrest warrant;⁷

REQUESTS the competent authorities of the Lebanese Republic to execute the present arrest warrant and order to transfer at the earliest opportunity;

REQUESTS the competent authorities of the Lebanese Republic to inform the Accused in person, in a language that he understands, of: (1) the arrest warrant and order to transfer, (2) the redacted Indictment issued against him, (3) the copy of the statutory provisions and rules that are relevant to the rights afforded to him and, in particular, Article 16 of the Statute and Rules 65, 66, 67 and 68 of the Rules included herewith, concerning the right to remain silent and the right to be cautioned that any statement he makes shall be recorded and may be used in evidence against him;

REQUESTS the competent authorities of the Lebanese Republic to immediately inform the Registrar of the Tribunal of the arrest of the Accused and to take the necessary measures for his detention and his transfer to the Headquarters of the Tribunal;

ORDERS the Registrar of the Tribunal to take the necessary steps, in consultation with the competent authorities of the Lebanese Republic and of the Kingdom of the Netherlands, to arrange the transfer of the Accused to the Headquarters of the Tribunal; and

REQUESTS the competent authorities of the Kingdom of the Netherlands to take responsibility for the Accused upon his arrival on their territory and to escort him to the

⁷ Case No. STL-11-01/1/PTJ, Redacted Indictment filed with the Registry of the Tribunal under reference R090760-R090806; Additional Materials filed with the Registry of the Tribunal under reference R090552-R090565.

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detention facility of the Tribunal, in accordance with the measures mutually agreed upon with the Registrar of the Tribunal;

ORDERS that neither the redacted Indictment, nor the warrant of arrest be disclosed before they have been served on the Accused or until further notice, except to the competent authorities of the Lebanese Republic and to the authorities of any other State to which the Prosecutor might transmit the Indictment pursuant to Rule 74 (B) of the Rules.

Done in French in two original copies, in English and in Arabic, the French text being authoritative.

Leidschendam, 28 June 2011.

[signature]

Daniel Fransen
Pre-Trial Judge

