



The Pre-Trial Judge

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

Le Juge de la mise en état

THE PRE-TRIAL JUDGE

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

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

The Registrar: **Mr Herman von Hebel**

Date: **21 September 2011**

Original: **French**

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**ORDER TO MAKE PUBLIC THE PROSECUTOR'S SUBMISSIONS
CONCERNING THE *AYYASH ET AL.* CASE**

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

Defence Office:
Mr François Roux



1. **CONSIDERING** that, on 17 January 2011, the Prosecutor filed, confidentially and *ex parte*, an indictment for confirmation, including an “Urgent Motion for the Non-disclosure of the Indictment (Rule 74)”;¹
2. **CONSIDERING** that, on 19 January 2011, in authorising the non-disclosure of the indictment of 17 January 2011, the Pre-Trial Judge recalled that in accordance with Rule 96 (B) of the Rules of Procedure and Evidence (the “Rules”) “[a]ny filing or order relating to ... a request for confirmation of an indictment that is filed confidentially by the Prosecutor, shall remain confidential for as long as is necessary for the effective conduct of the investigation and/or the protection of any person”;²
3. **CONSIDERING** that the Prosecutor filed amended versions of the indictment of 17 January 2011 on 11 March, 6 May and 10 June 2011 (the “Indictments”);
4. **CONSIDERING** that, on 28 June 2011, the Pre-Trial Judge issued a decision relating to the indictment of 10 June 2011 (the “Indictment”), according to which Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi and Mr Assad Hassan Sabra were indicted in connection with the attack of 14 February 2005 against Mr Rafiq Hariri and other persons (the “Decision relating to the Indictment”);³ and that, on the same day, he issued arrest warrants against each of the accused;
5. **CONSIDERING** that, at that juncture, the Indictment, the Decision relating to the Indictment, and the arrest warrants were kept confidential in order to facilitate the effective arrest of the accused;
6. **CONSIDERING** that, on 28 July 2011, upon request of the Prosecutor, the Pre-Trial Judge amended the order for non-disclosure of the Indictment in order to make public, in particular, the full names and aliases of the accused, as well as the charges laid against them;⁴

¹ Submission of an Indictment for Confirmation (Rule 68) [...], 17 January 2011.

² Case No. STL-11-01/I, Order on the Prosecutor’s Urgent Motions for Non-disclosure, 19 January 2011, para. 5.

³ Case No. STL-11-01/I, Decision Relating to the Examination of the Indictment of 10 June 2011 Issued Against Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi & Mr Assad Hassan Sabra, 28 June 2011.

⁴ Case No. STL-11-01/I, Order on the Prosecutor’s Motion for Variation of the Order for Non-disclosure of the Indictment, 28 July 2011.

7. **CONSIDERING** that, on 16 August 2011, further to the report of the Lebanese authorities to the President of the Tribunal announcing that the accused had not been arrested and, after consultation with the Prosecutor, the Pre-Trial Judge ordered the lifting of the confidentiality of the Indictment, its Annexes, the Decision relating to the Indictment, and the arrest warrants, subject to the redactions suggested by the Prosecutor;⁵
8. **CONSIDERING** that, at the current stage of the proceedings, the Pre-Trial Judge is of the opinion that it is in the interest of justice to make public the Prosecutor's confidential and *ex parte* submissions filed in connection with his requests for review of the Indictments, provided that, in accordance with Rule 96 (B) of the Rules, such a decision is not prejudicial to the conduct of the investigation and/or the protection of any person;
9. **CONSIDERING** that, before ruling on this matter, it is appropriate to hear the Prosecutor with regard to maintaining, in whole or in part, the confidentiality of each of the submissions he has filed since 17 January 2011 in support of his requests for review of the Indictments;
10. **CONSIDERING** that, if he intends to request that the aforementioned submissions remain partially confidential, the Prosecutor's observations must include suggested redactions and the reasons for them;

⁵ Case No. STL-11-01/I, Order Relating to the Lifting of the Confidentiality of the Indictment Against Messrs. Ayyash, Badreddine, Oneissi and Sabra and Other Documents, 16 August 2011.

FOR THESE REASONS,

Pursuant to Rules 77 (E) and 96 of the Rules,

THE PRE-TRIAL JUDGE,

ORDERS the Prosecutor to file, by 10.00 on 21 October 2011 at the latest, his observations with regard to maintaining, in whole or in part, the confidentiality of each of the submissions he has filed since 17 January 2011 relating to the review of the indictments and, where appropriate, include with his observations suggested redactions and the reasons for them if he wishes that his submissions remain partially confidential.

Done in French.

Leidschendam, 21 September 2011

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[signature]

Daniel Fransen
Pre-Trial Judge

