

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-11-02/CCS/PTJ**

The Pre-Trial Judge: **Judge Daniel Franssen**

The Registrar: **Mr. Herman von Hebel**

Date: **21 December 2011**

Original language: **English**

Type of document: **Public**

**DECISION ON DEFENCE OFFICE REQUEST TO REVIEW THE
14 NOVEMBER 2011 RECLASSIFICATION ORDER**

Office of the Prosecutor:
Mr. Daniel A. Bellemare, MSM, Q.C.

Defence Office:
Mr. François Roux



1. The Pre-Trial Judge of the Special Tribunal for Lebanon (the “Pre-Trial Judge”) is in receipt of the request from the Defence Office to file its motion for the reconsideration of the Pre-Trial Judge’s Order of 14 November 2011 reclassifying a decision from confidential to confidential and *ex parte* (the “Request”).¹
2. In its Request, the Defence Office submits that a review of the Order reclassifying the Decision is necessary in order to avoid injustice that could be occasioned by denying the Defence Office the opportunity to respond to the observations of the Prosecution, pursuant to Rule 140 of the Rules of Procedure and Evidence (the “Rules”).
3. In his communications with the Prosecutor,² the Pre-Trial Judge expressly requested the Prosecution’s views on whether its concerns *inter alia* for the safety and security of victims and witnesses — alleged in support of the confidential and *ex parte* nature of the initial request— justify classifying the Decision in the same way. The absence of any associated risk would have supported a decision to file a public or public redacted version of the Decision. However, in its submissions on the matter, the Prosecution reiterated its concerns and requested that the Decision be reclassified as confidential and *ex parte* in order to protect victims and witnesses, and the effective conduct of the ongoing investigations.³
4. The Pre-Trial Judge considers that the classification of judges’ orders is solely within their discretion in accordance with the Rules.⁴
5. The Head of the Defence Office is correct to point out that neither he, nor his office, is a party to these particular proceedings.⁵ Furthermore, no indictment has been confirmed in respect of any connected cases, and there are no accused. There is therefore no “*principe du*

¹ Case No. STL-11-02/CCS/PTJ, « *Demande d'autorisation aux fins de réexamen de l'Ordonnance portant reclassement du 14 novembre 2011* », 13 December 2011 (the “Request”). The Decision that was reclassified is the “Decision on the Prosecutor’s Connected Case Submission of 30 June 2011”, filed confidentially on 5 August 2011 (the “Decision”). The relevant order reclassifying the decisions is the public “Reclassification Order” of 14 November 2011 (the “Order”).

² Internal Memorandum from the Pre-Trial Judge to the Prosecutor, 4 November 2011 (copied *inter alia* to the Head of Defence Office); Confidential *ex parte* Memorandum from the Acting Prosecutor to the Pre-Trial Judge, 9 November 2011 (the “Prosecution’s Memorandum”).

³ Prosecution’s Memorandum, para. 3.

⁴ See notably Rule 96(A) of the Rules which provides that: “Subject to sub-paragraph (B), pre-trial filings, proceedings and orders shall be public, unless otherwise provided by the Rules or decided by the Pre-Trial Judge at the request of a Party.”

⁵ Request, para 7.

contradictoire” to offend at this stage, contrary to the submissions of the Head of the Defence Office.⁶

6. In light of the foregoing, the Pre-Trial Judge considers that the Head of Defence Office has no standing to file its motion.

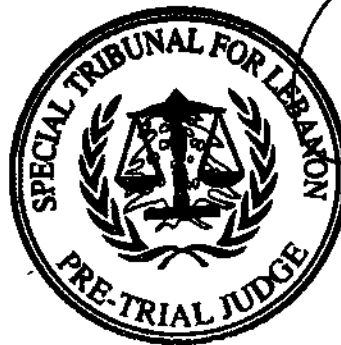
FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

DENIES the Request to file the motion for reconsideration.

Done in English.

Leidschendam, 21 December 2011.



Daniel Fransen
Pre-Trial Judge



⁶ Request, para. 13.