

The Pre-Trial Judge



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: **10 January 2012**

Original: **French**

Type of document: **Public**

**ORDER CONCERNING THE PROSECUTOR'S REQUEST FOR
REDACTION OF THE DOCUMENTS FILED IN EXECUTION OF
THE ORDER OF 6 DECEMBER 2011**

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

Defence Office:
Mr François Roux



1. **NOTING** the “Order Relating to Making Public the Prosecutor’s Submissions Concerning the *Ayyash et al.* Case” of 6 December 2011 (the “Order”), ordering in particular the Prosecutor to make public a number of documents relating to the review of the indictments filed by the Prosecutor in the *Ayyash et al.* case since 17 January 2011;¹
2. **NOTING** the Prosecutor’s Request of 4 January 2012 filed in compliance with the Order (the “Request”) and requesting in particular that the Pre-Trial Judge rule on the redaction of a number of documents annexed to the Request;²
3. **CONSIDERING** that before ruling on the Request, the Prosecutor urged the Pre-Trial Judge to request the Victims and Witnesses Unit (the “VWU”) to assist him in evaluating the risks that might result from making the documents annexed to the Request public without redaction, and to suggest any additional redactions to him where appropriate;³
4. **CONSIDERING** that, as stated in the Order⁴ and referred to on a number of occasions both by the Appeals Chamber⁵ and the Pre-Trial Judge,⁶ the Prosecutor should, where appropriate, have referred to the VWU before filing the documents concerned;
5. **CONSIDERING** that this manner of proceeding, in accordance with the spirit of Rule 50 of the Rules, is conducive to the expeditious and efficient conduct of the proceedings while avoiding endless exchanges between the Pre-Trial Judge, the Prosecutor and the VWU;
6. **CONSIDERING** that, indeed, if it did fall to the Pre-Trial Judge to seek the observations of the VWU, he would then have to forward them to the Prosecutor for his views and, should there be disagreement, revert to the VWU and so forth;

¹ Case No. STL-11-01/I/PTJ, Order Relating to Making Public the Prosecutor’s Submissions Concerning the *Ayyash et al.* Case, 6 December 2011, Disposition.

² Case No. STL-11-01/I/PTJ, Prosecutor’s Request for the Pre-Trial Judge to Authorise Proposed Redactions and Order the Registry to Prepare these in the Translated Documents Pursuant to the Order of the Pre-Trial Judge dated 6 December 2011, para. 25.

³ *Ibid.*, para. 22.

⁴ Order, para. 19.

⁵ Case No. CH/AC/2011/02, Order Allowing in Part and Dismissing in Part the Appeal by the Prosecutor Against the Pre-Trial Judge’s Decision of 2 September 2011 and Ordering the Disclosure of Documents, 7 October 2011, paras 23, 28, 33 and 34.

⁶ Case No. CH/PTJ/2011/13, Decision Relating to the Prosecution’s Urgent Application of 14 July 2011 for Suspension of the Decision of 6 July 2011 and to the Prosecution’s Further Submissions of 15 and 21 July 2011, 21 July 2011, p. 6 and Disposition; Case No. CH/PTJ/2011/16, *Ordonnance en exécution de la Décision de la Chambre d’appel du 7 octobre 2011*, 10 October 2011, para. 8; Case No. CH/PTJ/2011/18, Scheduling Order for Enforcement of the Appeals Chamber Decision of 7 October 2011, 21 October 2011, paras 10 and 21.

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7. **CONSIDERING** that, as a consequence, in the interests of proper administration of justice and of the expeditiousness of the proceedings, and in accordance with the Order, the Prosecutor should have sought the opinion of the VWU before filing the Request;

8. **CONSIDERING** that, under these circumstances, the Request must be dismissed and a new request should be filed, as to the same subject, in order to comply with the requirements of the Order – with, if appropriate, any new suggested redactions – after the Prosecutor has consulted the VWU;

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

Pursuant to Rules 50 and 89 (B) of the Rules of Procedure and Evidence and pursuant to the Order,

DISMISSES the Request;

ORDERS the Prosecutor to file, after consulting the VWU, a new request in order to comply with the requirements of the Order.

Done in French.

Leidschendam, 10 January 2012

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[signature]

Daniel Fransen
Pre-Trial Judge

