



BEFORE THE APPEALS CHAMBER

Case No.: STL-11-01/PT/AC

Before: Judge Sir David Baragwanath, Presiding
Judge Ralph Riachy, Judge Rapporteur
Judge Afif Chamseddine
Judge Daniel David Ntanda Nsereko
Judge Kjell Erik Björnberg

Registrar: Mr Herman von Hebel

Date: 29 March 2012

Original language: English

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THE PROSECUTOR

v.

**SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

***CORRIGENDUM TO “DECISION ON THE PRE-TRIAL JUDGE’S REQUEST
PURSUANT TO RULE 68(G)” OF 29 MARCH 2012***

Prosecutor:
Mr Norman Farrell

Counsel for Mr Salim Jamil Ayyash:
Mr Eugene O’Sullivan
Mr Emile Aoun

Head of Defence Office:
Mr François Roux

Counsel for Mr Mustafa Amine Badreddine:
Mr Antoine Korkomaz
Mr John Jones

Counsel for Mr Hussein Hassan Oneissi:
Mr Vincent Courcelle-Labrousse
Mr Yasser Hassan

Counsel for Mr Assad Hassan Sabra:
Mr David Young
Mr Guénaél Mettraux





NOTING the “Decision on the Pre-Trial Judge’s Request Pursuant to Rule 68(G)” issued today 29 March 2012 (“Decision”);

CONSIDERING that there are a few errors in paragraphs 2 and 20 of the Decision;

FOR THESE REASONS;

THE APPEALS CHAMBER;

ORDERS that paragraph 2 of the Order now reads as follows:

According to the Pre-Trial Judge, the request for amendment of the indictment “raises questions relating to the applicable law that could not have been submitted to the Appeals Chamber at an earlier stage and consequently were not addressed in the Decision of 16 February 2011”.¹ The request submits to the Appeals Chamber preliminary questions on the interpretation of Lebanese law relating to the crime of criminal association in Article 335 of the Lebanese Criminal Code. The Pre-Trial Judge avers that in the absence of a clearly defined interpretation of the applicable law for this crime, the Appeals Chamber’s answer to the preliminary questions is necessary in order to ensure a fair and expeditious trial guided by the interest of justice and general principles of law.²

ORDERS that paragraph 20 of the Order now reads as follows:

We are also not persuaded by the argument that the case is “assigned” to the Trial Chamber simply because of its decision to hold a trial *in absentia*.³ On the contrary, the Trial Chamber’s decision was delivered within the special procedure set out under Rule 105 *bis* of the Rules, which is narrowly limited to the initiation of proceedings *in absentia* against the four accused and does not extend to “the case” as a whole. When the Trial Chamber stated that it “was seised of the case”,⁴ it referred only to the order of the

¹ Pre-Trial Judge’s Order, para. 6.

² *Id.* para. 9.

³ See Sabra Defence Submission, paras 12-13.

⁴ STL, *Prosecutor v Ayyash et al.*, Case No. STL-11-01-I/TC, Decision to Hold Trial *In Absentia*, 1 February 2012, para. 24.



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Pre-Trial Judge in the context of this procedure.⁵ Indeed, the material it received from the Pre-Trial Judge was strictly and necessarily confined to documents relevant for the purpose of determining whether *in absentia* proceedings were appropriate.⁶

Done in Arabic, English and French, the English version being authoritative.

Dated this twenty-ninth day of March 2012,

Leidschendam, the Netherlands

A handwritten signature in black ink, appearing to read 'David Baragwanath'.

David Baragwanath

Presiding

⁵ See STL, *Prosecutor v Ayyash et al*, Case No. STL-11-01-I/, Order to Seize the Trial Chamber Pursuant to of the Rules of Procedure and Evidence in Order to Determine Whether to Initiate Proceedings *In Absentia*, 17 October 2011.

⁶ *Id* at para. 27.

