



THE APPEALS CHAMBER

Case No.: STL-11-01/PT/AC/R176bis

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

Registrar: Mr Herman von Hebel

Date: 23 April 2012

Original language: English

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THE PROSECUTOR

v.

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

ORDER BY THE JUDGE RAPPORTEUR DIRECTING JUDICIAL CONFERENCE

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





I, David Baragwanath, Presiding Judge of the Appeals Chamber of the Special Tribunal for Lebanon and having been appointed Judge Rapporteur in this matter pursuant to Rule 36 of the Rules of Procedure and Evidence (“Rules”);

NOTING that the Appeals Chamber is seized of the “Joint Defence Request for an Order on the Time-Limit to File Rule 176bis(C) Reconsideration Request” submitted by Defence counsel for the four accused in the *Ayyash et al.* proceedings on 30 March 2012 (“Request”);

NOTING that under Rule 176 *bis*(C) of the Rules of Procedure and Evidence (“Rules”), an “accused has the right to request the reconsideration of the interlocutory decision under paragraph A [...]” and that such a request “shall be submitted to the Appeals Chamber no later than thirty days after disclosure by the Prosecutor to the Defence of all material and statements referred to in Rule 110(A)(i)”;

NOTING that the Defence seeks an order from the Appeals Chamber “that the time limit prescribed by Rule 176 *bis*(C) shall not run until there has been a final Judicial Decision on whether ‘all material and statements referred to in Rule 110(A)(i)’ have been disclosed,” or, in the alternative, that the Appeals Chamber “grant an enlargement of 60 days on the time-limit set by Rule 176 *bis*(C)”;¹

NOTING that on 7 February 2012, the Pre-Trial Judge ordered the Prosecutor to file within 30 working days of the assignment of counsel² all the material supporting the indictment, as mentioned in Rule 110(A);³ that between 7 February and 15 March 2012, Defence teams received 11,000 pages of material from the Prosecutor;⁴ and that on 15 March 2012, Defence teams received further 17,000 pages of material;⁵

¹ Request, para. 11.

² Counsel were assigned by the Head of Defence Office on 2 February 2012. STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/I/PTJ, Assignment of Counsel for the Proceedings Held *In Absentia* Pursuant to Rule 106 of the Rules, 2 February 2012.

³ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Order Relating to the Disclosure of the Documents Referred to in Rule 110 (A) of the Rules of Procedure and Evidence, 7 February 2012.

⁴ Request, paras 7, 10.

⁵ *Ibid.*



NOTING that the Prosecutor advises that disclosure was completed on 5 April 2012,⁶ but that he has not fully disclosed documents for which he has requested the application of protective measures pursuant to Rules 115, 116, and 133 of the Rules;⁷

FINDING that the Appeals Chamber will be assisted by the oral submissions of the Parties before me on whether and, if so, to what extent the pending litigation regarding the application of protective measures to the supporting material affects the proper preparation of any motion for reconsideration;

DECIDE to convene a judicial conference in my Chambers on 25 April 2012 at 10 a.m.;

DIRECT the Prosecutor to be prepared to answer the following questions and for follow-up inquiries:

- (1) Clarify how the proposed redactions submitted to the Pre-Trial Judge, “have no bearing on the underlying evidence disclosed in the witness statements and documents that form the supporting material.”⁸
- (2) Further clarify his argument that “[t]here is consequently no basis for the [Defence] arguments that they cannot prepare requests for reconsideration [...] until they receive the non-redacted versions of [...] documents, or alternatively, until such time as the Pre-Trial Judge authorizes such redactions and protective measures.”⁹

DIRECT the Defence to be prepared to answer the following questions and for follow-up inquiries:

- (1) Clarify why it is necessary to wait for a “final Judicial Decision on whether ‘all material and statements referred to in Rule 110(A)(i)’ have been disclosed”,¹⁰

⁶ STL, *Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/AC, Prosecution Response to the Joint Defence Request for an Order on the Time-Limit to File Rule 176bis(C) Reconsideration Requests, 11 April 2012 (“Response”), para. 5.

⁷ See Request, fn. 2; Response, fn. 1.

⁸ Response, para. 11.

⁹ *Ibid.*

¹⁰ Request, para. 11.



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- (2) Clarify which legal issues decided in the Interlocutory Decision might be affected by material currently under review by the Pre-Trial Judge;
- (3) Clarify how such material can assist the Defence in challenging the Interlocutory Decision.

INFORM the Defence that any request for reconsideration is not due pending final determination of this matter.

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

Filed this 23rd day of April 2012,
Leidschendam, the Netherlands

David Baragwanath
Presiding, and Judge Rapporteur

