

**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: 24 April 2012

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

**ORDER BY THE JUDGE RAPPORTEUR ON REQUESTS FOR PARTICIPATION
IN 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 Korkmaz
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 Guénaël Mettraux





1. By an Order issued yesterday, I directed a judicial conference to take place in my Chambers on 25 April 2012. Today I received a request by the Head of Defence Office to attend the judicial conference in order to allow him to fulfil his mandate of assisting the Defence in the proceedings before the Tribunal.¹ I also received a request from the Registrar to grant the right of audience to the Chief of the Victims' Participation Unit ("VPU") to "ensure that the interests of persons seeking the status of victims participating in the proceeding are safeguarded in the Judicial Conference".²
2. With respect to the Defence Office Request, I consider that pursuant to Article 13(2) of the Statute and Rule 57(E) of the Rules of Procedure and Evidence ("Rules"), the Defence Office provides support and assistance to defence counsel and to the persons entitled to legal assistance. I also note that the Defence Office participates in proceedings pursuant to Rule 176bis of the Rules as of right. Finally, I consider that the Defence have authorized the Head of Defence Office to attend "any and all closed or private sessions" in these proceedings.³ In these circumstances, I grant the Defence Office Request.
3. As regards the Registrar's Request, I note that like the accused, victims of the attack of 14 February 2005 are directly affected by the proceedings before the Tribunal and that in the absence of victims' legal representatives their interests are safeguarded by the VPU. Given that all proceedings before this Tribunal should in principle be public but that the judicial conference is taking place in my Chambers, I see merit in allowing the VPU to be present during the conference for observation purposes only.
4. That is not to say, however, that I grant the VPU the right of audience. The Registrar has not shown that the issues to be raised in the judicial conference may affect "the personal interests of the victims" as required by Article 17 of the Statute. Indeed, Rule 176bis does not contemplate a right of audience to victims' legal representatives or to VPU. Moreover, the proliferation of arguments is a source of unnecessary delay which pursuant to Article 21 of the Statute should be avoided.

¹ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/AC/R176bis, Requête du chef du bureau de la défense aux fins d'assister à une conférence judiciaire à huis clos, 24 April 2012 ("Defence Office Request").

² STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/AC/R176bis, Registrar's Submission on Appearance of the Victims' Participation Unit at the Judicial Conference of 25 April 2012, 24 April 2012 ("Registrar's Request").

³ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/AC/R176bis, Requête du chef du bureau de la défense aux fins d'assister à une conférence judiciaire à huis clos, Annexe A, 24 April 2012. See para. 5 of Practice Direction on the Role of the Head of Defence Office in Proceedings Before the Tribunal, STL/PD/2011/04, 30 March 2011.



I therefore see no justification for granting the VPU a right of audience in the judicial conference and reject the Registrar's Request.

5. Should any issue arise during the judicial conference that may require the VPU to be heard, I am open to reconsider my decision if good cause is shown.

FOR THE FOREGOING REASONS,

I GRANT the request by the Head of Defence Office to attend the judicial conference; and

DENY the request by the Registrar to grant the right of audience for the purposes of the judicial conference to the Chief of the VPU but permit the Chief of the VPU to be present.

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

Filed this 24th day of April 2012,

Leidschendam, the Netherlands

David Baragwanath
Presiding, and Judge Rapporteur

