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SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE TRIAL CHAMBER

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

Before: Judge Robert Roth, Presiding
Judge Micheline Braidy
Judge David Re
Judge Janet Nosworthy, Alternate Judge
Judge Walid Akoum, Alternate Judge

The Registrar: Mr Herman von Hebel

Date: 16 May 2012

Original Language: French

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THE PROSECUTOR

v.

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

**DECISION ON REQUEST FOR EXTENSION OF THE PAGE LIMIT
CONCERNING THE RECONSIDERATION PROCEDURE FILED BY
THE BADREDDINE DEFENCE**

Office of the Prosecutor:
Mr Norman Farrell

Head of Defence Office:
Mr François Roux

Counsel for Mr Salim Ayyash:

Mr Eugene O'Sullivan
Mr Emile Aoun

Counsel for Mr Mustafa Badreddine:

Mr Antoine Korkmaz
Mr John Jones

Counsel for Mr Hussein Oneissi:

Mr Vincent Courcelle-Labrousse
Mr Yasser Hassan

Counsel for Mr Assad Sabra:

Mr David Young
Dr Guénaél Mettraux



STL Official Translation



I. Introduction

1. On 1 February 2012, the Trial Chamber decided to initiate proceedings *in absentia* against Messrs. Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi and Assad Hassan Sabra, pursuant to Rule 106 of the Rules of Procedure and Evidence (the “Rules”).¹

2. On 2 February 2012, the Head of Defence Office assigned counsel to the four accused, pursuant to Rule 105 *bis* (B) of the Rules.²

3. On 4 May 2012, the Badreddine Defence filed before the Presiding Judge of the Trial Chamber a request for leave to seek reconsideration of the Decision issued by the Trial Chamber on 1 February 2012 (the “Request of the Badreddine Defence of 4 May 2012”).³ In the annex to its request, the Badreddine Defence attached a document (“Annex A”),⁴ consisting of a fully drafted request for reconsideration. It stated that it was prepared to file that document before the Trial Chamber, should the Presiding Judge grant it leave to do so. In paragraph 3 of Annex A, the Badreddine Defence seeks an extension of the page limit permitted for filing a document such as a request for reconsideration. It submits that the matter of initiating proceedings *in absentia* before an international criminal tribunal is a new occurrence and is of particular importance. It states that the request is not excessive, given that it is limited to two additional pages.

4. Likewise on 4 May 2012, the Oneissi Defence filed before the Presiding Judge of the Trial Chamber a request for authorisation of its “[TRANSLATION] request for reconsideration of the decision to hold a trial *in absentia* of 1 February 2012” (the “Request of the Oneissi Defence

¹ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/I/TC, Decision to Hold Trial *In Absentia*, 1 February 2012 (the “Decision of 1 February 2012”).

² STL, *The 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, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, *Demande de la Défense de M Badreddine aux fins d'autorisation du réexamen de la « Décision portant ouverture d'une procédure par défaut » rendue par la Chambre de première instance le 1^{er} février 2012*, 4 May 2012.

⁴ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, Request of the Badreddine Defence of 4 May 2012, Annex A: *Requête de la Défense de M Badreddine aux fins de réexamen de la « Décision portant ouverture d'une procédure par défaut » rendue par la Chambre de première instance le 1^{er} février 2012*, 4 May 2012.



of 4 May 2012”).⁵ The applicant seeks that the Presiding Judge forward to the Trial Chamber the request for reconsideration, which is attached to the request (the “Annex”).⁶ That request consists of 12,110 words and 31 pages. The Oneissi Defence does not seek an extension of the page limit permitted for filing such a request.

5. On 11 May 2012, the Prosecution filed a response to the Request of the Badreddine Defence and the Request of the Oneissi Defence.⁷ In that response, which essentially concerns the authorisation to file a request for reconsideration, it states that it is opposed to the request for an extension of the page limit filed by the Badreddine Defence.⁸ With regard to the substance, it finds it is not sufficiently well-founded. It adds that the Trial Chamber should “discourage” the filing of substantive submissions as annexes, in particular if those requests seem to contravene the spirit and purpose of the Practice Direction on Filing of Documents before the Special Tribunal for Lebanon.

It concludes that, should authorisation to file a request for reconsideration be granted, the Badreddine Defence and the Oneissi Defence should be ordered to submit their requests for reconsideration in compliance with the Practice Direction on Filing of Documents before the Special Tribunal for Lebanon, in particular with regard to the page and word limits permitted.⁹

6. By way of a decision of 15 May 2012, the Presiding Judge of the Trial Chamber, pursuant to Rule 140 of the Rules, granted the applicants leave to file a request for reconsideration.¹⁰

⁵ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, *Requête de la Défense de M Oneissi en autorisation de sa « Demande de réexamen de la Décision d’ouverture d’une procédure par défaut du 1^{er} février 2012 »*, 4 May 2012.

⁶ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, Request of the Oneissi Defence of 4 May 2012, Annex: *Demande de la Défense de M. Oneissi en réexamen de la Décision d’ouverture d’une procédure par défaut du 1^{er} février 2012*, 4 May 2012.

⁷ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, Prosecution Response to the Badreddine Defence and Oneissi Defence Requests for Leave to Seek Reconsideration of the Trial *In Absentia* Decision, 11 May 2012 (the “Prosecution’s Response”).

⁸ Prosecution’s Response, para. 18.

⁹ Prosecution’s Response, para. 19 (b) (i).

¹⁰ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, Decision Authorising the Badreddine Defence and the Oneissi Defence to File a Request for Reconsideration, 15 May 2012 (the “Decision of the Presiding Judge of the Trial Chamber”).



He forwarded the entire file to the Chamber, so that it could rule on the matter of the extension of the page limit.

II. Discussion

7. The Practice Direction on Filing of Documents before the Special Tribunal for Lebanon (the “Practice Direction”) sets out in Article 5 (1) (a) that, unless otherwise provided in the Rules or ordered by the Pre-Trial Judge or a Chamber, motions shall not exceed 20 pages or 6,000 words, whichever is greater.¹¹

8. In paragraph 3 of Annex A, the Badreddine Defence requests an extension of the page limit permitted for filing a motion, such as the request for reconsideration. The Oneissi Defence, on the other hand, has not submitted any such request. However, the Annex filed by the Oneissi Defence consists of a “request for reconsideration” of 12,110 words and 31 pages. The maximum limits of the Practice Direction have thus been exceeded.

9. The Request of the Badreddine Defence shall be rejected, and that decision shall likewise apply to the request for reconsideration that the Presiding Judge of the Chamber authorised the Oneissi Defence to submit. The Chamber sees no good reason to depart from the general rules set forth in the Practice Direction. The fact that the matter is significant and innovative,¹² as was emphasised by the Badreddine Defence, does not automatically justify an extension of the page limit, particularly as case law limits the subject matter and arguments which may form the basis of a request for reconsideration.

10. The documents submitted by the applicants in the annexes to their requests for authorisation are being returned to them. A request is only admitted if it has been formally filed, in accordance with the Practice Direction. If they intend submitting a request for

¹¹ Practice Direction on Filing of Documents before the Special Tribunal for Lebanon, 23 April 2012, STL/PD/2010/ Rev.1, Article 5 (1) (a).

¹² Request of the Badreddine Defence of 4 May 2012, Annex A, para. 3.



reconsideration as authorised to do so by the Presiding Judge, they must comply with the instructions in Article 5, (1) (a) of the Practice Direction.

11. In future, applicants seeking authorisation must provide a summary of the submissions that they intend developing in their request for reconsideration and demonstrate in brief the reasons why it is well-founded, having regard to the requirements of the case law of international criminal tribunals in these matters.¹³

¹³ Cf. Decision of the Presiding Judge of the Trial Chamber, para. 10.



FOR THESE REASONS

THE TRIAL CHAMBER

REJECTS the request for the extension of the page limit submitted by the Badreddine Defence.

DOES NOT ADMIT Annex A to the Request of the Badreddine Defence of 4 May 2012 and the Annex to the Request of the Oneissi Defence of 4 May 2012 as requests for reconsideration.

ORDERS the Badreddine Defence and the Oneissi Defence to comply with the Practice Direction on Filing Documents before the Special Tribunal for Lebanon, in the context of filing their requests for reconsideration, should they file one.

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

Leidschendam, 16 May 2012

[signature]

Robert Roth, Presiding Judge

[signature]

Micheline Braidy, Judge

[signature]

David Re, Judge

