

**BEFORE 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

Registrar: Mr. Herman von Hebel

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THE PROSECUTOR

v.

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

**PROCEDURAL DECISION ON DEFENCE MOTIONS CHALLENGING
JURISDICTION**

Office of the Prosecutor:
Mr. Norman Farrell

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

Head of the Defence Office:
Mr. François Roux

Counsel for Mr. Mustafa Amine Badreddine:
Mr. Antoine Korkmaz
Mr. John Jones

**Legal Representatives of
Participating Victims:**
Mr. Peter Haynes
Mr. Mohammad Mattar
Ms. Nada Abd El Sater Abu Samra

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





1. The purpose of this decision is to consider a request by the Prosecution for an extension of time and the word limits of its response to challenges to the jurisdiction of the Special Tribunal for Lebanon mounted by the Defence of each of the four Accused, to invite the lead legal representative of participating victims to file observations in relation to these challenges, and to set a date for a hearing.
2. On 4 May 2012, the Defence of Mr. Salim Jamil Ayyash filed a preliminary motion challenging the jurisdiction of the Tribunal.¹ On the same day, the Defence of Mr. Mustafa Amine Badreddine, Mr. Hussein Hassan Oneissi, and Mr. Assad Hassan Sabra requested an extension of the word and page limits of their own challenges to jurisdiction.² On 8 May 2012, the Trial Chamber ordered the Defence of those three Accused to file their motions challenging jurisdiction by 10 May 2012.³ The Defence of Mr. Sabra filed its motion on 9 May 2012 and the Defence of Mr. Badreddine and Mr. Oneissi filed their motions on 10 May 2012.⁴

Prosecution's response to the Defence motions challenging jurisdiction

3. On 16 May 2012, the Prosecution informed the Trial Chamber that it intended to file a consolidated response to the four Defence motions challenging jurisdiction and sought an extension of the word limit to 20,000 words, and an extension of time to 7 June 2012 to file the response.⁵ A joint Defence response to the Prosecution's motion did not oppose extending the

¹ STL, *Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/TC, Motion on Behalf of Salim Ayyash Challenging the Legality of the Special Tribunal for Lebanon, 4 May 2012.

² Affaire N° STL-11-01/PT/TC, Requête déposée par la défense de M. Badreddine sollicitant l'extension par acte séparé du nombre de pages et la prorogation du délai pour son exception préjudicielle d'incompétence du Tribunal spécial pour le Liban déposée ce jour, 4 mai 2012; Case No. STL-11-01/PT/TC, Sabra Motion for Extension of Page Limit/Word Count in Re Motions Challenging Jurisdiction, 4 May 2012; and, Case No. STL-11-01/PT/TC, The Defence for Mr. Hussein Hassan Oneissi Request for Extension of the Page Limit for the Motion Challenging the Legality of the Tribunal, 4 May 2012.

³ Case No. STL-11-01/PT/TC, Decision on Extension of Word Limits for the Filing of Preliminary Motions Challenging Jurisdiction, 8 May 2012, p. 6.

⁴ Case No. STL-11-01/PT/TC, Sabra's Preliminary Motion Challenging the Jurisdiction of the Special Tribunal for Lebanon, 9 May 2012; Case No. STL-11-01/PT/TC, The Defence for Mr. Hussein Hassan Oneissi's Motion Challenging the Legality of the Tribunal, 10 May 2012; and Affaire N° STL-11-01/PT/TC, Exception préjudicielle d'incompétence du Tribunal spécial pour le Liban par la Défense de M. Badreddine, 10 mai 2012.

⁵ Case No. STL-11-01/PT/TC, Prosecution Request on Extension of Word Limits and Time for the Filing of the Prosecution Response to Preliminary Motions Challenging Jurisdiction, 16 May 2012. The Trial Chamber requested the Defence Counsel of the Accused to provide any responses by 3.00pm on 17 May 2012 - email correspondence, 16 May 2012, by a Legal Officer of the Trial Chamber to Defence Counsel.



word limit but argued that extending the filing time to 7 June 2012 would prejudice the ability of Defence counsel to prepare for a hearing. Thus, they argued, either the Prosecution should file by 4 June or, the Trial Chamber should schedule a hearing no earlier than 18 June 2012.⁶

4. The Prosecution would be entitled under Article 5 of the Practice Direction on Filing of Documents before the Special Tribunal for Lebanon to collectively file 24,000 words (or 80 pages) in response to the four Defence motions (by filing four separate responses). Allowing the request would enhance judicial economy and avoid unnecessary duplication of the resources of the Prosecution (and, hence, the Tribunal). The Trial Chamber will therefore grant the extension of the word limit sought.
5. In relation to the request for an extension of time, and noting the complexity of the arguments to which the Prosecution must respond and that it is filing a consolidated response to four separate Defence motions, the Trial Chamber will allow the Prosecution an extension of time to file its response. The Trial Chamber believes that extending the time limit to Wednesday, 6 June 2012 will allow the Defence, the Defence Office, the legal representatives of the participating victims, and the Trial Chamber itself, sufficient time to evaluate the Prosecution response before an oral hearing a week later.
6. The combined length of the four Defence submissions,⁷ added to the fact that the parties (and the legal representatives for participating victims) can substantiate their arguments and respond to questions in a hearing avoids the need for any written replies to the Prosecution's consolidated response. The Trial Chamber will thus not grant leave to reply to that response.

Observations by the legal representatives of the victims

7. On 8 May 2012, the Pre-Trial Judge granted participating status to fifty-eight victims in the case,⁸ and, subsequently, the Registrar designated legal representatives to represent the interests of those victims.⁹

⁶ Rather than one 13 June 2012, as had been planned. Case No. STL-11-01/PT/TC, Joint Defence Response to Prosecution Request on Extension of Word Limits and Time for the Filing of the Prosecution Response to Preliminary Motions Challenging Jurisdiction, 17 May 2012.

⁷ Cumulatively, 99 pages of 36,313 words.

⁸ Case No. STL-11-01/PT/PTJ, Decision on Victims' Participation in the Proceedings, 8 May 2012, para. 104.

⁹ Case No. STL-11-01/PT/PTJ, Designation of Victims' Legal Representatives, 16 May 2012. The Registrar designated a "lead representative" and two "co-representatives" to represent the interests of participating victims.



8. Given the significance of a challenge to jurisdiction, and in view of Article 17 of the Tribunal's Statute and Rule 87 of the Rules of Procedure and Evidence, the Trial Chamber considers that it may be assisted by observations from the victims' legal representatives on the issue. The Trial Chamber therefore invites the lead legal representative to file observations on behalf of all participating victims in regard to the four Defence motions, if any, by Wednesday, 6 June 2012.

Hearing

9. The Trial Chamber believes that it would be aided by oral submissions and oral answers to questions of the parties and will thus schedule a hearing in relation to the four Defence challenges to jurisdiction on Wednesday, 13 June 2012 at 9.30 am.

FOR THESE REASONS, the Trial Chamber:

- (i) **GRANTS** the Prosecution's request to extend the word limit of its anticipated consolidated response to the four Defence motions challenging the jurisdiction of the Tribunal to 20,000 words, and extends the time for filing the response to Wednesday, 6 June 2012;
- (ii) **INVITES** the lead legal representative of victims to file observations, if any, on the four Defence motions by Wednesday, 6 June 2012; and
- (iii) **SCHEDULES** a hearing in relation to the four Defence motions on Wednesday, 13 June 2012 at 9.30 am.

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

18 May 2012,
Leidschendam, The Netherlands

Judge Robert Roth, Presiding

Judge Micheline Braidy

Judge David Re

