

**THE PRE-TRIAL JUDGE**

Case No.: **STL-11-01/PT/PTJ**

The Pre-Trial Judge: **Judge Daniel Fransen**

The Registrar: **Mr. Herman von Hebel**

Date: **6 June 2012**

Original language: **English**

Classification: **Public**

THE PROSECUTOR

v.

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

**ORDER SETTING A TIME LIMIT FOR FILING OF PRELIMINARY MOTIONS
PURSUANT TO RULE 90(A)(ii) AND (iii)**

Office of the Prosecutor:
Mr. Norman Farrell

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

Victims' Legal Representative:
Mr. Peter Haynes

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

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

Counsel for Mr. Assad Hassan Sabra:
Mr. David Young





1. Rule 90 provides for the disposal of preliminary motions which: (i) challenge jurisdiction; (ii) allege defects in the form of the indictment; (iii) seek the severance of counts joined in one indictment under Rule 70 or seek separate trials under Rule 141; or (iv) raise objections based on the refusal of a request for assignment of counsel made under Rule 59(A).¹

2. During the Status Conference held on 12 April 2012, the Pre-Trial Judge instructed the Defence² to file any preliminary motions challenging jurisdiction before the Trial Chamber by 4 May 2012.³ The Defence has filed its preliminary motions challenging jurisdiction before the Trial Chamber.⁴

3. During the same Status Conference held on 12 April 2012, the Pre-Trial Judge furthermore indicated that he would decide the deadline or deadlines for the other preliminary motions at a later date.⁵ Preliminary motions which either allege defects in the form of the indictment or seek the severance of counts joined in one indictment under Rule 70 or seek separate trials under Rule 141 (pursuant to Rules 90(A)(ii) and (iii) respectively) therefore remain to be scheduled.⁶ Such preliminary motions are disposed of by the Trial Chamber, and must ordinarily be brought not later than thirty days after disclosure by the Prosecutor to the Defence of all material and statements referred to in Rule 110(A)(i).⁷

¹ In this Decision, "Rule" or "the Rules" refer to the Rules of Procedure and Evidence of the Tribunal.

² In this Decision, "the Defence" means Defence Counsel assigned to represent the accused in the *Ayyash et al.* case.

³ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01, Status Conference before the Pre-Trial Judge, 12 April 2012, Transcript, p. 47.

⁴ 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; Sabra's Preliminary Motion Challenging the Jurisdiction of the Special Tribunal For Lebanon, 9 May 2012; *Exception préjudicielle d'incompétence du Tribunal Spécial pour le Liban Déposée par la Défense de M Badreddine*, 9 May 2012; The Corrected Version of the Defence for Mr. Hussein Hassan Oneissi's Motion Challenging the Legality of The Tribunal, 10 May 2012. The Trial Chamber had granted an extension of time for the filing of these motions until 10 May 2012, STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/TC, Decision on Extension of Word Limits for the Filing of Preliminary Motions Challenging Jurisdiction, 8 May 2012.

⁵ *Idem*

⁶ The fourth category of preliminary motion in Rule 90(A)(iv), which allows objections based on the refusal of a request for assignment of counsel made under Rule 59(A), is not applicable at this stage of proceedings.

⁷ Rule 90(A). The effective date of the disclosure by the Prosecutor to the Defence of all material and statements referred to in Rule 110(A)(i) is 5 April 2012 (STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01, Status Conference before the Pre-Trial Judge, 12 April 2012, Confidential Transcript, pp. 5-6).



4. Notwithstanding this thirty day time-limit, the Pre-Trial Judge may set time-limits for the making of preliminary motions.⁸

5. On 6 June 2012, the Prosecution indicated that it had disclosed to Defence Counsel and the Legal Representative of Victims the non-redacted supporting material “no longer requiring other protective measures” on 4 and 5 June 2012.⁹ This leaves only four items of supporting material in redacted form at this stage pending the Pre-Trial Judge’s decision.¹⁰

6. The Pre-Trial Judge is mindful of his obligations under Rule 89(B) to ensure that the proceedings are not unduly delayed, and to take any measures necessary to prepare the case for a fair and expeditious trial.

7. The Defence has now received almost all of the materials supporting the indictment, without redactions. The redactions in the few materials that remain have no impact on the Defence’s ability to analyse the indictment pursuant to Rule 90(A). The Pre-Trial Judge therefore considers that the Defence is in a position to assess and make submissions on whether there are defects in the form of the indictment, and to seek the severance of counts joined in one indictment under Rule 70 or seek separate trials under Rule 141.

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

PURSUANT TO Rules 8, 89(B) and (F), and 90(A)(ii) and (iii),

ORDERS the Defence to file by Monday 25 June 2012 any preliminary motions which allege defects in the form of the indictment, or which seek the severance of counts joined in the indictment under Rule 70 or seek separate trials under Rule 141.

⁸ Rule 89(F) RPE.

⁹ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Prosecution Request for Leave to Withdraw its Application of 21 December 2011 and Modify its Application of 15 March 2011 (*sic*) for Protective Measures, Public, with confidential Annexes A and B, and confidential *ex parte* Annex C, 5 June 2012, para. 5.

¹⁰ *Id.*, para. 6.



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

Leidschendam, 6 June 2012.



A handwritten signature in black ink, consisting of a large, stylized 'D' and 'F' followed by a horizontal line.

Daniel Fransen
Pre-Trial Judge

