



THE PRE-TRIAL JUDGE

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

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

The Registrar: **Mr Herman von Hebel**

Date: **14 June 2012**

Original language: **French**

Classification: **Public**

THE PROSECUTOR

v.

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

DECISION AUTHORISING THE WITHDRAWAL OF THE PROSECUTION APPLICATION OF 21 DECEMBER 2011 AND THE MODIFICATION OF THE APPLICATION OF 15 MARCH 2012 REQUESTING PROTECTIVE MEASURES FOR WITNESSES

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





I. The Prosecution Request¹

1. On 5 June 2012, the Prosecution requested leave to withdraw the application for witness protection measures filed on 21 December 2011² and to modify the application for the protection of experts filed on 15 March 2012,³ pending responses from several States.⁴

2. In its request for modification of the Application of 15 March 2012, the Prosecution seeks to: (i) be granted leave to withdraw the requests for protection for the experts mentioned in that Application with the exception of those referred to in Annexes A and C of the Request of 5 June 2012, (ii) request protection for three persons who were not mentioned in the initial request and (iii) request a period of 30 days before the Pre-Trial Judge rules on the modified Application of 15 March 2012.⁵

3. The Prosecution confirms that it has filed a list of 81 “at risk” witnesses, in accordance with the decision relating to the measures for the non-dissemination of material of 25 May 2012,⁶ and that it has disclosed to the Defence two audio files and one video file that had still not been disclosed.⁷

4. Lastly, the Prosecution requests that the Pre-Trial Judge make it known whether the measures provided for in the Decision of 25 May 2012 apply to all the material to be disclosed, and not solely to the supporting material.⁸

5. The Defence has not replied to the Request of 5 June 2012.

¹ STL, *The 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, (the “Request of 5 June 2012”).

² STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Prosecution’s Application for Interim Non-Disclosure of the Identity of Witnesses pursuant to Rules 115 and 116 and Witness Protective Measures pursuant to Rule 133, 21 December 2011, (the “Application of 21 December 2011”); Request of 5 June 2012, paras 9 to 12.

³ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Prosecution’s Second Application for Interim Non-Disclosure of the Identity of Witnesses pursuant to Rules 115 and Witness Protective Measures pursuant to Rule 133, 15 March 2012 (the “Application of 15 March 2012”).

⁴ Request of 5 June 2012, para 1.

⁵ *Id.* paras 13 to 17

⁶ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Decision Relating to the Prosecution Request Seeking Measures for the Non-dissemination of Material of 2 May 2012, 25 May 2012 (the “Decision of 25 May 2012”).

⁷ Request of 5 June 2012, paras 18 and 19.

⁸ Request of 5 June 2012, paras 20 to 22.



II. Statement of reasons

6. The Pre-Trial Judge considers that it is in the interests of justice to grant the request for withdrawal of the Application of 21 December 2011 and the part of the Application of 15 March 2012 relating to the experts mentioned in the Application of 15 March 2012, with the exception of those referred to in Annexes A and C to the Request of 5 June 2012.

7. The Pre-Trial Judge notes nevertheless that the Prosecution fails to provide any reason for the late filing of the request for protection of the persons who were not mentioned in the Application of 15 March 2012. He considers that it would have been in the interests of the proper administration of justice for such requests to have been submitted earlier. However, in view of the security interests at stake, he grants the Prosecution leave to modify the Application of 15 March 2012 in order to add to it the three experts mentioned in Annexes A and C⁹ to the Request of 5 June 2012.

8. With regard to the request for the postponement of the ruling on the decision relating to the protective measures for the international experts mentioned in the aforementioned Annexes A and C, the Pre-Trial Judge considers it appropriate to have the responses of the States to the requests for clarification submitted by the Prosecution following the Decision of 25 May 2012, before ruling on the matter. He invites the Prosecution to seize him upon receipt of those responses, and by 17 July 2012 at the latest.

9. Lastly, the Pre-Trial Judge confirms that the measures set out by way of the Decision of 25 May 2012 apply to all the material to be disclosed by the Parties and by the Victims' Legal Representative in the context of the ongoing proceedings.

⁹ Annex C containing the names of expert witnesses is confidential and *ex parte* Annex A, which contains their pseudonyms, is confidential.



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

Pursuant to Rule 77 of the Rules,

AUTHORISES the withdrawal of the Application of 21 December 2011 and of the part of the Application of 15 March 2012 relating to the experts mentioned in that Application, with the exception of those referred to in Annexes A and C to the Request of 5 June 2012;

AUTHORISES the amendment of the Application of 15 March 2012 aimed at extending the request for protection to all the individuals mentioned in Annexes A and C to the Request of 5 June 2012;

ORDERS the Prosecution to seize him of the protective measures for the international experts mentioned in Annexes A and C above, upon receipt of the responses from the States to the requests for clarification submitted to them following the Decision of 25 May 2012, and at the latest by 17 July 2012;

STATES that the measures set out in the Decision of 25 May 2012 apply to all material disclosed by the Parties and the Victims' Legal Representative.

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

Leidschendam, 14 June 2012

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[signature]

Daniel Fransen
Pre-Trial Judge

