

**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: **12 July 2012**

Original language: **English**

Classification: **Public**

THE PROSECUTOR

v.

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

**ORDER IN RESPECT OF 10 JULY 2012 MOTION BY THE DEFENCE
OF MR. BADREDDINE**

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. The Pre-Trial Judge is seized by a motion filed by Counsel for Mr. Badreddine¹, together with the Prosecution's response thereto². In the Defence Motion, Counsel for Mr. Badreddine requests the Pre-Trial Judge to recognise and declare that the mandate of the previous Prosecutor expired on 13 November 2010, and that his putative official submission *inter alia* of an indictment for confirmation is consequently null and void.³
2. Counsel for Mr. Badreddine has filed a request for authorisation to file a reply to the Prosecution's Response.⁴ Counsel for Mr. Badreddine submits that in its response, the Prosecution has relied on a new element of which the Defence was formerly unaware, namely a letter of 3 July 2012 addressed to the Office of the Prosecutor by the Principal Legal Officer in Charge of the Office of Legal Counsel of the United Nations.⁵
3. The Pre-Trial Judge notes that Rule 8 of the Tribunal's Rules of Procedure and Evidence provides that a "reply to the response, if any, shall be filed within seven days of obtaining leave of the Pre-Trial Judge or Chamber." Requests to file a reply should furthermore be limited to the rare circumstances that justify them, and in any event the reply itself may only address new issues that arise from the response concerned.⁶
4. In this case, the Pre-Trial Judge considers that the letter of 3 July 2012 could constitute such a new element, and authorises the filing of a reply pursuant to Rule 8.

¹ STL, *Prosecutor v. Ayyash et al*, Case No. STL-11-01/PT/PTJ, *Requête de la Défense de M Mustafa Amine Badreddine en annulation pour défaut de pouvoir de l'acte d'accusation du 10 juin 2011 confirmé le 28 juin 2011*, filed on 26 June 2012 (the "Defence Motion"). The Pre-Trial Judge notes that "[l]es Conseils de la défense des autres accusés [...] se joignent à la présente requête et font leurs développements et demandes y mentionnés dans la présente", Defence Motion, para. 2.

² STL, *Prosecutor v. Ayyash et al*, Case No. STL-11-01/PT/PTJ, Prosecution Response to the Joint Defence Request to Annul the Indictment for Absence of Authority, filed on 9 July 2012 (the "Prosecution's Response").

³ Defence Motion, para. 3.

⁴ STL, *Prosecutor v. Ayyash et al*, Case No. STL-11-01/PT/PTJ, *Requête de la Défense de M Mustafa Amine Badreddine sollicitant l'autorisation de déposer une réplique à la réponse du Procureur relative à la Requête de la Défense en annulation pour défaut de pouvoir de l'acte d'accusation*, filed on 11 July 2012 (the "Defence Motion").

⁵ Cf Annex A to the Prosecution's Response.

⁶ ICTY, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Decision on Prosecution Request for Leave to Reply to "Second Supplemental Response to Motion for Judicial Notice of Documents", 15 March 2010, p.2. See also ICTY, *Prosecutor v. Strugar et al*, Case No. IT-01-42-AR72, Decision on "Prosecution's application for leave to file a reply to the Defence's reply to the Prosecution's response to the Defence's brief on interlocutory appeal on jurisdiction", 12 September 2002.



5. Since Counsel for Mr. Badreddine has indicated that he is prepared to file his reply forthwith⁷, the Pre-Trial Judge will shorten the time for the filing of the reply pursuant to Rule 9(A)(i).

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

PURSUANT TO Rules 8 and 9(A)(i) of the Rules,

GRANTS the motion by Counsel for Mr. Badreddine for authorisation to file a reply and **ORDERS** Counsel for Mr. Badreddine to file their reply by Monday 16 July 2012.

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

Leidschendam, 12 July 2012.



Daniel Fransen
Pre-Trial Judge

⁷ Defence Motion, para. 4 (« ...elle est prête à déposer sa réplique à très bref délai... »).

