



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: **2 August 2012**
Original language: **English**
Classification: **Public**

THE PROSECUTOR

v.

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

**INTERIM ORDER RELATING TO THE PROSECUTION'S REQUEST
CONCERNING INTERIM PROTECTIVE MEASURES OF 17 JULY 2012**

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. On 15 March 2012, the Prosecution filed a request *inter alia* for an order for the interim non-disclosure of the names and identities of a number of international “experts” or State officials named in the indictment supporting material, pursuant to Rule 115 of the Rules of Procedure and Evidence (the “Rules”).¹

2. On 5 June 2012, the Prosecution filed a request *inter alia* for leave to modify its Request of 15 March 2012.² The Prosecution submits that it maintains its earlier request for protective measures with regard to 15 international experts, and adds a further three international experts to the list of witnesses for whom protective measures are sought.³ Furthermore, the Prosecution argues that in order to fulfil its disclosure obligations, it needs to consult those States whose officials may potentially be affected by the disclosure of their names and identities.⁴ Therefore, the Prosecution seeks an extension of 30 working days in order to receive such observations from the States concerned, and requests the Pre-Trial Judge to refrain from deciding on the Request for Protective Measures, pending receipt of the responses from the States.⁵

3. On 14 June 2012, the Pre-Trial Judge authorised the modification of the Request of 15 March 2012 concerning protective measures for witnesses.⁶ Additionally, the Pre-Trial Judge expressed the view that, prior to rendering a decision on protective measures, he considered it appropriate to be seised of the States’ responses concerning protective measures sought for their officials.⁷ Consequently, the Pre-Trial Judge ordered the Prosecution to seise him upon the Prosecution’s receipt of the responses of the States, and in any event no later than 17 July 2012.⁸

¹ STL, *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 Rule 115 and Witness Protective Measures Pursuant to Rule 133, 15 March 2012 (the “Request of 15 March 2012”), paras 3-5, 10

² 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 for Protective Measures, 5 June 2012 (the “Request of 5 June 2012”).

³ *Id.*, para. 6.

⁴ *Id.*, para. 7.

⁵ *Id.*, paras 6 and 17.

⁶ STL, *Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/PTJ, *Décision autorisant le retrait de la requête du Procureur du 21 décembre 2011 et la modification de la requête du 15 mars 2012 sollicitant des mesures de protection des témoins*, 14 June 2012 (the “Decision of 14 June 2012”).

⁷ *Id.* para. 8, p. 4.

⁸ *Ibid.*



4. On 17 July 2012, the Prosecution filed a Notice pursuant to the Pre-Trial Judge's Decision of 14 June 2012, together with several responses from the States concerned relating to protective measures sought for their officials.⁹ The Prosecution submitted that it is still waiting for written responses from a number of States regarding three international experts on whether and on what basis they seek protective measures for these officials.¹⁰ The Prosecution notes that it expects to receive the States' responses no later than 24 September 2012 and therefore requests the Pre-Trial Judge for an extension of time to provide him with the responses.¹¹

5. On 26 and 27 July 2012 respectively, Defence Counsel for Mr. Ayyash¹² (the "Counsel for Mr. Ayyash") and Mr. Badreddine (the "Counsel for Mr. Badreddine") responded to the Prosecution's Notice of 17 July 2012.¹³ The Pre-Trial Judge notes that the Counsel for Mr. Ayyash does not raise any objection relating to the Prosecution's request for an extension of time.¹⁴ Counsel for Mr. Badreddine repeats its earlier objections to the non-disclosure of the identities of the international experts and joins Counsel for Mr. Ayyash in its objections, and thus does not object to the Prosecution's request for an extension of time.¹⁵ Counsel for the two other Accused did not file responses to the Notice of 17 July 2012.

6. As noted in the 14 June 2012 decision, absent the responses of the States regarding all international experts mentioned in the Prosecution's Notice of 17 July 2012, it is premature to address the substantive matter raised by the Parties.¹⁶

7. In the light of the foregoing, the Pre-Trial Judge, without prejudice to the arguments raised by Counsels for all accused, grants the Prosecution a final extension of time to provide

⁹ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Prosecution Notice Pursuant to the Pre-Trial Judge's Decision of 14 June 2012 & Request for Interim Protective Measures, 17 July 2012 (the "Notice of 17 July 2012")

¹⁰ *Id.*, paras 6 and 9.

¹¹ *Id.*, para. 12(b)–(c).

¹² STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Defence for Salim Ayyash Response to Prosecution Request for Interim Protective Measures, 26 July 2012 (the "Response from the Counsel for Mr. Ayyash").

¹³ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, *Réponse de la Défense de M. Badreddine à «Prosecution Notice Pursuant to the Pre-Trial Judge's Decision of 14 June 2012 & Request for Interim Protection Measures» et adjonction à la Réponse de la Défense de M. Ayyash du 16 juillet 2012*, 27 July 2012 (the "Response from the Counsel for Mr. Badreddine").

¹⁴ Response from the Counsel for Mr. Ayyash, para 1.

¹⁵ Response from the Counsel for Mr. Badreddine, para 1.

¹⁶ Decision of 14 June 2012, para 8.



the Pre-Trial Judge with the responses of the States concerned. The Prosecution shall file these responses no later than 24 September 2012.

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

PURSUANT TO Rule 77 of the Rules,

GRANTS the Prosecution's request for an extension of time to provide the Pre-Trial Judge with the responses of the States concerned regarding interim measures for their officials, and **ORDERS** the Prosecution to file these responses no later than 24 September 2012.

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

Leidschendam, 2 August 2012



Daniel Fransen
Pre-Trial Judge

