

**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: **17 August 2012**

Original language: **English**

Classification: **Public**

**THE PROSECUTOR**

v.

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

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**ORDER TO REDACT THE CONFIDENTIAL TRANSCRIPT OF THE STATUS  
CONFERENCE OF 26 JULY 2012 AND MAKE PUBLIC THE REDACTED  
VERSION**

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**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

**Victims' Participation Unit:**  
Mr. Alain Grellet

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

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



1. On 26 July 2012, and pursuant to Rule 94(A) of the Rules,<sup>1</sup> the Pre-Trial Judge convened the most recent status conference in the *Ayyash et al* Case (the “Status Conference”).<sup>2</sup>
2. Rule 96 of the Rules provides that pre-trial proceedings shall be public, unless otherwise provided by the Rules or decided by the Pre-Trial Judge at the request of a Party.
3. To date, and in order to facilitate exchanges between the participants, status conferences were held in closed session, with summaries of the proceedings being made public thereafter.
4. During the Status Conference, the Prosecution presented its view that there are sufficient grounds to revisit the question of the public nature of status conferences, and that there are a number of reasons for doing so.<sup>3</sup>
5. The first reason advanced by the Prosecution is that — since the Pre-Trial Judge has determined the provisional date for the start of the trial<sup>4</sup> — an elevated degree of public interest in the Tribunal’s proceedings, particularly in Lebanon, can be expected.<sup>5</sup>
6. The second reason advanced by the Prosecution is that the process recently adopted by the Pre-Trial Judge of providing summaries of the proceedings in the status conferences had become unwieldy.<sup>6</sup>
7. The third reason advanced by the Prosecution is that the recent practice of convening meetings between the parties and the Victims’ Legal Representative pursuant to Rule 91(D) and (E) (the first of which was held on 5 July 2012) are by definition *inter partes*.<sup>7</sup> As such,

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<sup>1</sup> Rule 94(A) provides that the Pre-Trial Judge “shall convene a status conference within a reasonable period after the initial appearance of the accused and not more than eight weeks after it and, thereafter, within eight weeks from the previous one unless otherwise ordered [...]”

<sup>2</sup> STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Order Convening a Status Conference, 20 July 2012.

<sup>3</sup> STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01, Status Conference before the Pre-Trial Judge, 26 July 2012, Confidential Transcript (the “Confidential Transcript”), p.30, l.18, p. 32, l.11.

<sup>4</sup> See STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Order Setting a Tentative Date for the Start of Trial Proceedings, 19 July 2012, p. 8 : “THE PRE-TRIAL JUDGE SETS the tentative date for the start of trial proceedings for 25 March 2013 in the courtroom of the Special Tribunal for Lebanon.”

<sup>5</sup> Confidential Transcript, p. 31, l. 16-l. 19.

<sup>6</sup> Confidential Transcript, p. 31, l. 19-l. 25

<sup>7</sup> Confidential Transcript, p. 32, l. 17-l. 19.

these meetings provide the opportunity for the Pre-Trial Judge to be addressed on any matters in confidence, thereby obviating the need for status conferences to remain confidential.<sup>8</sup>

8. The Prosecution furthermore referred to the practice at other international courts and tribunals, where status conferences are of a public nature as matter of principle,<sup>9</sup> before submitting that status conferences should in future be held in public.<sup>10</sup>

9. In response, Counsel for the Defence agreed with the submissions of the Prosecution.<sup>11</sup> The Co-Legal Representative of the Victims likewise agreed with the Prosecution's submission, albeit subject to maintaining the anonymity of those victims participating in proceedings who are granted it.<sup>12</sup>

10. Consequently, the Pre-Trial Judge made an oral ruling during the Status Conference that future status conferences will be held in open session.<sup>13</sup> He repeated his desire to protect the transparency and the public nature of proceedings, and expressed his gratitude to the Parties and the Co-Legal Representative for agreeing to have public status conferences.<sup>14</sup>

11. In light of the foregoing, the views of the Parties and of the Legal Representative of Victims were sought regarding whether or not the transcript of the Status Conference itself should be made public, and if so, subject to what redactions if any.<sup>15</sup> There was no objection to the distribution of the transcript of the Status Conference, although some requests for redactions have been received.

12. The Pre-Trial Judge therefore considers that — subject to the necessary redactions being made — the transcript of the Status Conference should be made public. The Pre-Trial Judge will communicate those redactions to the Registry.

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<sup>8</sup> Confidential Transcript, p. 32, l. 1-7.

<sup>9</sup> Confidential Transcript, p. 32, l. 21-l. 25.

<sup>10</sup> Confidential Transcript, p. 33, l. 5-l. 14.

<sup>11</sup> Confidential Transcript, p. 33, l. 17-p. 34, l. 1.

<sup>12</sup> Confidential Transcript, p. 34, l. 2-l. 4.

<sup>13</sup> Confidential Transcript, p. 34, l. 16.

<sup>14</sup> Confidential Transcript, p. 34, l. 5-l. 15.

<sup>15</sup> Internal correspondence from Pre-Trial Chamber Legal Officer to the Parties, the Legal Representative of Victims, and the Victims' Participation Unit, entitled "Classification of Transcript", 30 July 2012.

PUBLIC

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**FOR THESE REASONS,**

**THE PRE-TRIAL JUDGE,**

**PURSUANT TO** his oral ruling of 26 July 2012, and pursuant to Rule 96(A) of the Rules;

**INSTRUCTS** the Registrar to prepare and make public a redacted version of the official transcript of the Status Conference held on 26 July 2012, as instructed by the Pre-Trial Chamber.

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

Leidschendam, 17 August 2012



Daniel Fransen  
Pre-Trial Judge

