



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: **28 August 2012**

Original language: **English**

Classification: **Public**

THE PROSECUTOR

v.

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

ORDER SETTING A DATE FOR FILING THE PROSECUTION'S PRE-TRIAL BRIEF

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. By way of this order, the Pre-Trial Judge sets a date for filing the Prosecution's pre-trial brief in accordance with Rule 91(G) of the Rules.
2. Rule 91(G) of the Rules states that the Prosecution must file its pre-trial brief and its lists of witnesses and exhibits at least six weeks before to the Pre-Trial Conference held under Rule 127 of the Rules.
3. On 19 July 2012, the Pre-Trial Judge set the tentative date for the start of trial proceedings for 25 March 2013, in light of *inter alia* his consultation with the Parties during the Pre-Trial Conference of 12 June 2012,¹ and his consultation with the President of the Tribunal, the Presiding Judge of the Trial Chamber and the Registrar on the subject of setting a date for starting trial proceedings.²
4. On 26 July 2012, during the third Status Conference in the *Ayyash et al.* case held in closed session, the Prosecution proposed setting the deadline for filing the pre-trial brief pursuant to Rule 91 of the Rules on or about 1 December 2012.³ One of the reasons advanced by the Prosecution in proposing this deadline was that the additional time would allow for the completion of more of its pending expert reports.⁴
5. In setting a date for filing the Prosecution's pre-trial brief, the Pre-Trial Judge is mindful that the Prosecution would benefit from having access to the final versions of its pending expert reports both for the preparation of its case and for finalising its pre-trial brief. On 7 August 2012, the Prosecution filed a confidential Notice on Expert Reports along with confidential Annexes A, B and C.⁵ The Prosecution reiterated its proposal that the filing of the pre-trial brief be scheduled for a time on or about 1 December 2012.⁶
6. The Pre-Trial Judge notes that the Prosecution has divided the expert reports listed in its Notice into three categories: Annex A lists 12 pending expert reports,⁷ Annex B lists

¹ STL, *The 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.

² *Id.*, para. 10.

³ Public Status Conference Transcript, 26 July 2012, p. 10. The Pre-Trial Judge replied to the Prosecution that 1 December 2012 appeared to be excessively late, p. 10-11. The Defence emphasised the importance of having received the definitive or final versions of the Prosecution's reports, p. 13.

⁴ *Id.*, p. 14.

⁵ STL, *The Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Prosecution Notice on Expert Reports, 7 August 2012 (the "Notice").

⁶ *Id.*, para. 17.

⁷ *Id.*, para. 4.

31 “core experts reports” currently available that the Prosecution is likely to rely on at trial,⁸ and Annex C lists 42 additional expert reports which the Prosecution intends to disclose on a rolling basis once it has decided to rely on them.⁹

7. The Pre-Trial Judge takes into account that as of 7 August 2012, all but two of the 31 reports the Prosecution considers to be its “core expert reports”, as listed in Annex B, had already been completed and disclosed to the Defence. As per the Prosecution, the remaining two were expected to be disclosed by 10 August 2012.¹⁰

8. With regard to the Prosecution’s 12 pending expert reports listed in Annex A, six are expected to be completed by the end of October 2012, one is expected to be completed only on 30 November 2012, and the remaining five will be completed only after 1 December 2012.¹¹

9. In setting the deadline for the filling of the pre-trial brief, the Pre-Trial Judge also takes into consideration other deadlines in order to ensure that the Parties have sufficient time to meet their working plan obligations pursuant to Rule 91. Indeed, Rules 91(H) and 91(I) set the time-limits for filing, respectively, the Victims’ Legal Representative’s lists of witnesses and exhibits, and the Defence’s pre-trial brief. Furthermore, pursuant to Rule 95, the Pre-Trial Judge is mindful of the time required for preparing and submitting a complete file to the Trial Chamber.

10. In light of the aforementioned steps and time-limits, the Pre-Trial Judge considers that 15 November 2012 is an appropriate deadline for the Prosecution to file its pre-trial brief along with its lists of witnesses and exhibits, considering in addition that, by that date, all but one of the pending expert reports expected by 1 December 2012 would have already been received by the Prosecution.

⁸ *Id.*, paras 7, 11.

⁹ *Id.*, paras 13-14.

¹⁰ *Id.*, para. 10.

¹¹ *Id.*, Annex A to the Prosecution Notice on Expert Reports.

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FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

PURSUANT TO Rule 91(G) of the Rules,

ORDERS the Prosecution to file its pre-trial brief along with its list of witnesses and its list of exhibits on 15 November 2012.

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

Leidschendam, 28 August 2012



Daniel Fransen
Pre-Trial Judge

