



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

BEFORE THE TRIAL CHAMBER

Case No.: STL-11-01/PT/TC

Before: Judge Robert Roth, Presiding
Judge Micheline Braïdy
Judge David Re
Judge Janet Nosworthy, Alternate Judge
Judge Walid Akoum, Alternate Judge

Registrar: Mr. Herman von Hebel

Date: 30 August 2012

Original language: English

Type of document: Public with Public & Confidential Annexes

THE PROSECUTOR

v.

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

**ORDER ON CONFIDENTIAL DOCUMENTS USED
IN DECISION OF 1 FEBRUARY 2012**

Office of the Prosecutor:
Mr. Norman Farrell

Counsel for Mr. Salim Jamil Ayyash:
Mr. Eugene O'Sullivan
Mr. Emile Aoun

Head of the Defence Office:
Mr. François Roux

Counsel for Mr. Mustafa Amine Badreddine:
Mr. Antoine Korkmaz
Mr. John Jones

**Legal Representatives of
Participating Victims:**
Mr. Peter Haynes
Mr. Mohammad F. Mattar
Ms. Nada Abdelsater-Abusamra

Counsel for Mr. Hussein Hassan Oneissi:
Mr. Vincent Courcelle-Labrousse
Mr. Yasser Hassan

Counsel for Mr. Assad Hassan Sabra:
Mr. David Young
Mr. Guénaël Mettraux





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1. Defence counsel requested access to *ex-parte* material used by the Trial Chamber in its decision of 1 February 2012 to try the four Accused, Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi, and Assad Hassan Sabra, *in absentia*.¹ This request was in the context of seeking reconsideration of that decision.² In a hearing on 14 June 2012, the Trial Chamber granted the request, subject to redacting identifying information,³ and ordered Defence counsel to file any joint supplementary submission relating to this material within three days of receiving the documents.⁴ On 21 June 2012 the Trial Chamber gave the *ex-parte* documents to the Defence.⁵
2. On 27 June 2012, however, Defence counsel filed a joint supplementary submission suggesting that the communication of these documents “appears to have been incomplete”.⁶ Thereafter, in its decision on reconsideration, the Trial Chamber acknowledged that, due to an administrative oversight, some documents “merely cumulative to those already disclosed” had not yet been provided to the Defence.⁷ Having now applied appropriate redactions, the confidential documents, listed in Annex A, can be provided to the Defence. Annex B is a confidential DVD containing these documents.
3. The annexes do not contain five documents requested in the joint supplementary submissions:
 - (i) A document not in the Trial Chamber’s possession, namely, a submission by the Prosecution to the Pre-Trial Judge of 12 August 2011;⁸

¹ STL, *Prosecutor v. Ayyash, Badreddine, Oneissi and Sabra*, Case No. STL-11-01/TC, Decision to Hold Trial *In Absentia*, 1 February 2012.

² STL-11-01/PT/TC, Requête de la Défense de M. Badreddine aux fins de réexamen de la « Décision portant ouverture d’une procédure par défaut » rendue par la Chambre de première instance le 1^{er} février 2012, 22 mai 2012, para. 4; Sabra Motion for Reconsideration of the Trial Chamber’s Order to Hold a Trial *In Absentia*, 23 May 2012, para. 2; Demande de la défense de M. Oneissi en réexamen de la décision d’ouverture d’une procédure par défaut du 1^{er} février 2012, 24 mai 2012, para. 3; Ayyash Motion Joining Sabra Motion for Reconsideration of the Trial Chamber’s Order to Hold a Trial *In Absentia*, 24 May 2012, para. 4.

³ The redactions consist of removing the names of individuals where appropriate to protect their privacy, or the integrity of any ongoing investigations.

⁴ STL-11-01, Transcript, 14 June 2012, pp. 45-46.

⁵ STL-11-01/PT/TC, Order on *Ex-parte* Documents Used in Decision of 1 February 2012, 21 June 2012.

⁶ STL-11-01/PT/TC, Joint Submissions Regarding the Material Relied upon by the Trial Chamber in Its *Absentia* Decision, 27 June 2012, para. 15.

⁷ STL-11-01/PT/TC, Decision on Reconsideration of the Trial *In Absentia* Decision, 11 July 2012, fn. 39.

⁸ This submission was filed confidentially and *ex-parte* before the Pre-Trial Judge. The Trial Chamber does not have this document and did not refer to it in its “Decision to Hold Trial *In Absentia*”.



- (ii) A non-existent document; an order allegedly issued by the Trial Chamber on 11 November 2011;⁹ and,
- (iii) Three documents previously disclosed to Defence counsel, namely the 8 November 2011 response from the Lebanese Prosecutor-General to the Prosecutor's request for assistance of 7 October 2011 dated 25 October 2011,¹⁰ disclosed on 15 February 2012; and two letters dated 31 August 2011 and 8 September 2011 from the Registrar of the Tribunal to the Lebanese Prosecutor-General,¹¹ disclosed on 14 March 2012.
4. Confidential documents remain subject to the protective measures ordered by the Pre-Trial Judge on 25 May 2012.¹²

FOR THESE REASONS, the Trial Chamber:

INSTRUCTS the Registry to disclose to Defence counsel the confidential DVD containing the documents listed in Annex A as soon as is practicable.

⁹ This "order" by the Trial Chamber to notify the four Accused of the President's statement of 11 August 2011 and the content of Rules 104-105 of the Rules of Procedure and Evidence is listed in Annex A of the joint supplementary submission but does not exist. The Trial Chamber *instructed* the Registrar to make the notification in its decision of 23 November 2011 [see, STL-11-01/PT/TC, Interim Decision Under Rule 106 (*Proceedings In Absentia*), 23 November 2011, p. 6.]

¹⁰ This document was disclosed as part of the case file.

¹¹ These letters are part of the "Livret bleu - Onglet 1" on p. 1 of F0148.

¹² See, STL-11-01/PT/PTJ, Décision relative à la requête du Procureur sollicitant des mesures de non-diffusion de pièces du 2 mai 2012, 25 mai 2012.




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

30 August 2012,
Leidschendam,
The Netherlands



Judge Robert Roth, Presiding



Judge Micheline Braidy



Judge David Re

