



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 Braidy
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





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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TRIBUNAL SPÉCIAL POUR LE LIBAN

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

30 August 2012,
Leidschendam,
The Netherlands

Judge Robert Roth, Presiding

Judge Micheline Brady

Judge David Re

