

**THE TRIAL CHAMBER**

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

The Trial Chamber: **Judge Robert Roth, Presiding
Judge Micheline Braidy
Judge David Re
Judge Janet Nosworthy, Alternate Judge
Judge Walid Akoum, Alternate Judge**

The Registrar: **Mr. Herman von Hebel**

Date: **19 December 2012**

Original language: **English**

Classification: **Public**

THE PROSECUTOR
v.
SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA

**DECISION ON JOINT DEFENCE MOTION FOR
RECLASSIFICATION OF CONFIDENTIAL DOCUMENTS**

Office of the Prosecutor:
Mr. Norman Farrell

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

Victims' Legal Representative:
Mr. Peter Haynes

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

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

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





1. On 1 February 2012, the Trial Chamber issued its “Decision to Hold Trial *in Absentia*”. Thereafter, and upon their request, it provided to counsel representing the four Accused, Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi and Mr Assad Hassan Sabra, a number of confidential documents that the Trial Chamber used in making the decision. The documents were provided confidentially to defence counsel and with the redactions necessary to protect the identities of Lebanese justice officials.¹

2. The Appeals Chamber subsequently denied defence motions to reconsider the Trial Chamber’s decision.² Defence counsel thereafter filed a joint request to reclassify the confidential documents as public. Their request argues that declassification is necessary to allow public scrutiny and transparency of an issue highly relevant to the rights of the four Accused to a fair trial.³

3. The Prosecution opposes the request, arguing that confidentiality was originally requested to preserve the effective conduct of the investigation and to protect those whose identity may be divulged. Reclassifying the confidential material could potentially jeopardise ongoing efforts to locate and arrest the four Accused, and may compromise the safety and security of persons referred to in the documents. Further, it argues that the request has not demonstrated why making the documents public is necessary to ensure the fair trial rights of the Accused.⁴

¹ See, STL, *The Prosecutor v. Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi, and Assad Hassan Sabra*, STL-11-01/PT/TC, Order on *Ex-Parte* Documents Used in Decision of 1 February 2012, 21 June 2012; Order on Confidential Documents Used in Decision of 1 February 2012, 30 August 2012.

² STL, *The Prosecutor v. Ayyash, Badreddine, Oneissi, and Sabra*, STL-11-01/PT/AC/AR126.1, Decision on Defence Appeals Against Trial Chamber’s Decision on Reconsideration of the Trial *In Absentia* Decision, 1 November 2012.

³ STL, *The Prosecutor v. Ayyash, Badreddine, Oneissi, and Sabra*, STL-11-01/PT/TC, Joint Defence Motion for Reclassification of Confidential Documents Used in the “Decision to Hold a Trial in Absentia” of 1 February 2012, 14 November 2012.

⁴ STL, *The Prosecutor v. Ayyash, Badreddine, Oneissi, and Sabra*, STL-11-01/PT/TC, Prosecution Response to the Joint Defence Request for Reclassification of Documents Used by the Trial Chamber in the *In Absentia* Decision, 5 December 2012.



4. The Trial Chamber believes that reclassifying these documents as public is premature. The four Accused have not yet been arrested and public disclosure of the documents, at this point, could indeed prejudice ongoing attempts to apprehend them. It is important to safeguard the confidential nature of law enforcement efforts to locate and apprehend fugitives.

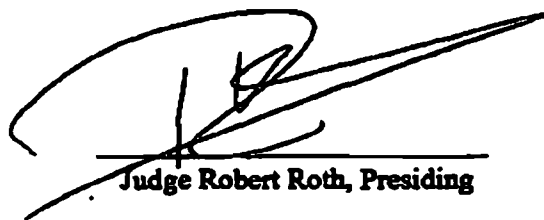
5. The Trial Chamber also considers that the joint defence request has not established how reclassifying the documents as public could be necessary to safeguard the rights of the four Accused to a fair trial. Counsel for the four Accused have the (redacted) documents. That they are not yet publically available is not a fair trial issue. Accordingly, the request is denied.

FOR THESE REASONS, the Trial Chamber

DISMISSES the Joint Defence Request.

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


Leidschendam
The Netherlands
19 December 2012



Judge Robert Roth, Presiding



Judge Micheline Braidy



Judge David Re

