

**THE APPEALS CHAMBER**

Case No.: **01**
STL-11-02/PT/AC/AR126.3

Before: **Judge David Baragwanath, Presiding**
Judge Ralph Riachy
Judge Afif Chamseddine
Judge Daniel David Ntanda Nsereko
Judge Ivana Hrdličková, Judge Rapporteur

Registrar: **Mr Herman von Hebel**

Date: **12 February 2013**

Original language: **English**

Classification: **Public**

THE PROSECUTOR

v.

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

ORDER ON SUBMISSIONS FROM THE VICTIMS' PARTICIPATION UNIT

Prosecutor:
Mr Norman Farrell

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

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

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

Head of Defence Office:
Mr François Roux

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





SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

1. We are seized of an Appeal filed by the Legal Representative of Victims (“LRV”) against a decision of the Pre-Trial Judge on protective measures for victims participating in the proceedings.¹ The Appeal is directed against the Pre-Trial Judge’s holding that victims participating in the proceedings may not do so anonymously.² Pursuant to Rule 36, the President has designated Judge Hrdličková to be the Judge Rapporteur in this case.

2. After the grant of certification by the Pre-Trial Judge³ but before the filing of the Appeal, the Registrar requested the Appeals Chamber to permit the Chief of the Victims’ Participation Unit (“VPU”) to make submissions with respect to the issue of victim anonymity.⁴ The Registrar submits that the Appeal involves an issue which will have an impact not only on those victims currently represented by the LRV but also on victims who may be granted the status of victims participating in the proceedings in the future.⁵ In addition, he stresses that the VPU “is familiar with the experiences and circumstances of various victims and with their expectations of participation in the Tribunal’s proceedings” and as such “is in a unique position to make legal submissions on this issue and the likely impact on the victims” if the Pre-Trial Judge’s decision remains in force.⁶

3. We first note that the Registrar submitted his Request *before* the Appeals Chamber even became seized of any appeal. In other words, the Registrar based his filing merely on the certification decision without having seen the actual Appeal and the arguments advanced by the LRV. As such, the Request was somewhat hypothetical and in any event not properly before the Appeals Chamber when filed. Given that we are now seized with the Appeal, we accept the Request. However, we remind the Registrar to avoid such untimely filings in the future. We also order the Registrar to file the Request under the case number of this interlocutory appeal to preserve the integrity of the case record.⁷

¹ STL, *Prosecutor v Ayyash et al.*, STL-11-01/PT/AC/AR126.3, Appeal of the Legal Representative of Victims Against the Decision of the Pre-Trial Judge Refusing Protective Measures, 8 February 2013 (“Appeal”).

² Appeal, paras 2, 74-75

³ STL, *Prosecutor v Ayyash et al.*, STL-11-01/PT/PTJ, Decision on the Motion of the Legal Representative of Victims Seeking Certification to Appeal the Decision of 19 December 2012 on Protective Measures, 30 January 2013.

⁴ STL, *Prosecutor v. Ayyash et al.*, STL-11-01-PT/AC, Registrar’s Request to Permit Submissions from the Victims’ Participation Unit Regarding Victim Anonymity, 1 February 2013 (“Request”), para. 8.

⁵ Request, paras 5-6.

⁶ Request, para. 7.

⁷ See Article 2(11) of the Practice Direction on Filing of Documents Before the Special Tribunal for Lebanon, STL/PD/2010/01/Rev.1, 23 April 2012 (“Practice Direction”).



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4. As to the merits of the Request, we note that Rule 51(E) of the Rules of Procedure and Evidence (“Rules”) permits the Appeals Chamber to “grant the person in charge of the [VPU] a right of audience in relation to matters relating to the participation of victims in the proceedings.” Whether victims participating in the proceedings may remain anonymous is a matter that squarely falls under this Rule. In addition, we see the advantage that a full briefing by the VPU offers in this respect. We therefore grant the request. As the right of audience includes the making of written submissions, we permit the Chief of VPU to file a brief not exceeding 4,000 words. He must do so by 1 March 2013.



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DISPOSITION**FOR THESE REASONS;****THE APPEALS CHAMBER, deciding unanimously;****PURSUANT to Rule 51(E) of the Rules and Article 2(11) of the Practice Direction;****GRANTS the Registrar's Request;****PERMITS the Head of the VPU to file a brief of 4,000 words by 1 March 2013 addressing the issue of victim anonymity; and****ORDERS the Registrar to file the Registrar's Request under the case number of STL-11-01/PT/AC/AR126.3.**

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

Dated 12 February 2013,

Leidschendam, the Netherlands

Judge David Baragwanath
Presiding

