SPECIAL TRIBUNAL FOR LEBANON المحكمة الخاصة بلبنان TRIBUNAL SPÉCIAL POUR LE LIBAN

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**
The Registrar:	**Mr Daryl Mundis, Acting Registrar**
Date:	**29 April 2013**
Original language:	**French**
Classification:	**Public**

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

SCHEDULING ORDER RELATING TO THE IMPACT OF THE NON-COMPLIANCE WITH THE FORMAL REQUIREMENTS FOR THE WRITTEN STATEMENTS OF WITNESSES ON THEIR ADMISSIBILITY

Office of the Prosecutor:
Mr Norman Farrell

Head of Defence Office:
Mr François Roux

Legal Representative of Victims:
Mr Peter Haynes

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

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 Guénaël Mettraux

1. On 15 April 2013, the Pre-Trial Judge submitted to the Trial Chamber ("the Chamber") the matter of the impact of the non-compliance with the formal requirements for the written statements of witnesses provided for by the relevant Practice Direction[1] on their admissibility pursuant to Rule 155 of the Rules of Procedure and Evidence ("the Rules").[2] Having noted that, as the Prosecution itself admits, numerous statements of witnesses do not meet the obligations set out in Article 2 (1) (c) (iv), Article 2 (c) and (e), and Article (3) (d) of the Practice Direction, but do nevertheless comply with Rule 149 (C) and (F) of the Rules, the Pre-Trial Judge has deemed that the matter of the impact of the non-compliance with the formal requirements for the admissibility of evidence falls under the jurisdiction of the Chamber and that its determination might have an impact on the time required to prepare for trial.[3]

2. Although some parties have already expressed their views on the subject,[4] the Chamber invites all the parties to file submissions in response to the following question: if written statements of witnesses meet the requirements of the Rules but do not comply on all points with the requirements of the Practice Direction, what would be the impact of this non-compliance on the admissibility of those statements?

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[1] Practice Direction on the Procedure for taking Depositions under Rules 123 and 157 and for taking Witness Statements for Admission in Court under Rule 155, 15 January 2010 ("the [Practice] Direction").
[2] STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Decision on the Prosecution's Motion to Refer to the Trial Chamber the Requests to Admit the Written Statements of Witnesses pursuant to Rules 89 (E) and 155 of the Rules of Procedure and Evidence, 15 April 2013 (the "Decision").
[3] *Id.*, para. 19.
[4] STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Prosecution's Motion Requesting the Pre-Trial Judge to Refer its Rule 155 Application to the Trial Chamber Pursuant to Rule 89 (E),confidential, 20 February 2013, paras 6, 34-35 and 39-40; STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Response on behalf of Mr. Ayyash to "Prosecution's Motion Requesting the Pre-Trial Judge to Refer its Rule 155 Application to the Trial Chamber Pursuant to Rule 89(E)", confidential, 4 March 2013, para 20.

FOR THESE REASONS, the Trial Chamber:

(i) **INVITES** the Prosecution to file a brief by 10 May 2013.

(ii) **INVITES** the Counsel for the Defence of Messrs Salim Jamil Ayyash, Mustafa Amine Badreddine, Hussein Hassan Oneissi and Assad Hassan Sabra to file a brief in response to that of the Prosecution by 21 May 2013.

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

Leidschendam, 29 April 2013

[signature]

Judge Robert Roth, Presiding

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Judge Micheline Braidy

[signature]

Judge David Re