



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE PRE-TRIAL JUDGE

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

The Pre-Trial Judge: **Judge Daniel Fransén**

The Registrar: **Mr. Daryl Mundis, Acting Registrar**

Date: **17 May 2013**

Original language: **English**

Classification: **Public**

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

DECISION ON SABRA DEFENCE REQUEST FOR LEAVE TO REPLY

Office of the Prosecutor:
Mr. Norman Farrell

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

Legal Representative of Victims:
Mr. Peter Haynes

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

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

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



1. The Pre-Trial Judge is seized of a motion from Counsel for Mr. Sabra¹ filed on 19 April 2013,² to which the Prosecution responded on 6 May 2013.³
2. On 9 May 2013, the Defence filed a request for leave to reply to the Prosecution Response,⁴ to which the Prosecution responded on 14 May 2013.⁵
3. It has been established that in principle, a reply must generally be limited to circumstances where new issues arise out of the respondent's brief.⁶
4. In its Request for Leave, the Defence seeks authorisation to make two submissions. First, the Defence submits that the Prosecution Response provides an explanation which "may result in the Defence withdrawing or limiting part of the relief sought in the Defence Motion."⁷ To the extent that this is the case, it is not a new issue, and the Pre-Trial Judge is able to ascertain whether the full relief the Defence requests remains necessary, without the need for further submissions. In any event, a filing party remains at liberty formally to withdraw arguments already filed.
5. Second, in its Request for Leave, the Defence alleges that the Prosecution Response "fails to follow a clear and linear approach to the issues raised in the Defence Motion".⁸ This is neither a new fact nor a relevant assertion, given that the Parties — subject to the relevant Rules and Practice Directions — enjoy a broad discretion to structure and formulate their arguments as best as they see fit.

¹ The "Defence"

² STL, *Prosecution v. Ayyash et al.*, Case No. STL-11-01/PT/PTJ, Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit, confidential, 19 April 2013 ("Defence Motion"). The Defence subsequently filed the Addendum to Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit, confidential, 2 May 2013. All further references to filings and decisions relate to this case number unless otherwise stated.

³ Prosecution Response to the "Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit" and "Addendum to Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit", confidential, 6 May 2013 ("Prosecution Response").

⁴ Defence Request for Leave to Reply to the "Prosecution Response to the "Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit and Addendum, 9 May 2013 ("Request for Leave").

⁵ Prosecution Response to Sabra Defence Request for Leave to Reply to the Prosecution Response to the Sabra Motion for Effective Compliance with the Prosecution's Disclosure Obligations and Request for an Extension of the Page Limit and Addendum, 14 May 2013.

⁶ STL, *Prosecutor v. Ayyash et al.*, Case No. STL-11-01/PT/AC/AR126.1, Order on Defence Request for Leave to File a Reply, 8 October 2012, para. 3, and the authorities cited in footnote 7. Exceptional circumstances may nevertheless justify a departure from this general principle.

⁷ Request for Leave, para. 5.

⁸ *Id.*, para. 6.

6. Since the Request for Leave fails to meet the requirements for obtaining leave to reply, it is denied.

DISPOSITION

FOR THESE REASONS,

THE PRE-TRIAL JUDGE,

PURSUANT TO Rule 77(A) of the Rules of Procedure and Evidence,

DENIES the Request for Leave.

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

Leidschendam, 17 May 2013.



Daniel Fransen
Pre-Trial Judge

