



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: Mr Daniel Fransen

Registrar: Mr Daryl Mundis, Acting Registrar

Date: 27 May 2013

Original language: French

Classification: Public

PROSECUTOR

v.

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

DECISION ON THE PROSECUTION REQUEST OF 17 APRIL 2013

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. By way of this decision, the Pre-Trial Judge rules on the Prosecution's request of 17 April 2013 in which it informs the Pre-Trial Judge of the filing of a signed version of the indictment of 6 February 2013 against Mr Salim Jamil Ayyash, Mr Mustafa Amine Badreddine, Mr Hussein Hassan Oneissi and Mr Assad Hassan Sabra (respectively the "Indictment of 6 February 2013" and the "Accused") in compliance with the decision of 12 April 2013¹ and requests the Pre-Trial Judge to: (i) be authorised to redact the Indictment of 6 February 2013 in order to protect the interests of the investigation and those of the victims and witnesses; (ii) issue arrest warrants and orders for transfer and detention and international arrest warrants and requests for transfer and detention; and (iii) notify the Lebanese authorities of the Indictment of 6 February 2013 (the "Request of 17 April 2013").²

2. On 24 April 2013, the Legal Representative of Victims filed observations in which he informs the Pre-Trial Judge that he does not intend to take any position in relation to the Request of 17 April 2013.³

3. On 24 April 2013, Counsel for the Defence for Mr Badreddine filed observations according to which the Prosecution requests were premature given the ongoing contentious proceedings before the Trial Chamber which are likely to affect the validity and enforceability of the Indictment of 6 February 2013.⁴

4. Counsel for the Defence for Mr Oneissi considered that the redactions proposed by the Prosecution are not founded either in law or in fact insofar as the Prosecution fails to indicate to what extent they are likely to protect the investigation, the victims or the witnesses at this stage of the proceedings.⁵ Counsel for the Defence for Mr Oneissi also submits that the issuance of arrest warrants is not justified.⁶

¹ STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Decision relating to the Prosecution Requests of 8 November 2012 and 6 February 2013 for the Filing of an Amended Indictment, 12 April 2013 (the "Decision of 12 April 2013").

² STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Prosecution's Filing of the Signed Version of the Amended Indictment in Compliance with the Pre-Trial Judge's Decision of 12 April 2013 & Request for Amended Arrest Warrants and Orders/Requests for Transfer and Detention, 17 April 2013.

³ STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, Response of the Legal Representative of Victims to the Prosecution's Filing of the Signed Version of the Amended Indictment, 24 April 2013.

⁴ STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, *Observations de la Défense de M. Mustafa Amine Badreddine en réponse à "Prosecution's Filing of the Signed Version of the Amended Indictment in Compliance with the Pre-Trial Judge's Decision of 12 April 2013 & Request for Amended Arrest Warrants and Orders/Requests for Transfer and Detention"*, 24 April 2013.

⁵ STL, *The Prosecutor v Ayyash et al*, Case No. STL-11-01/PT/PTJ, *Réponse de la Défense de Monsieur Hussein Hassan Oneissi à la "Prosecution's Filing of the Signed Version of the Amended Indictment in Compliance with*

5. The Pre-Trial Judge notes, firstly, that the ongoing proceedings before the Trial Chamber do not have suspensive effect on the questions raised in the Request of 17 April 2013, which was filed subsequently to the issuance of the Indictment of 6 February 2013. He takes note, furthermore, of the fact that the Prosecution filed the Indictment of 6 February 2013 in compliance with the Decision of 12 April 2013.

6.¹ The Pre-Trial Judge considers that the redactions to the Indictment of 6 February 2013 proposed in Annex (B) to the Request of 17 April 2013 are, in accordance with Rule 96 (B) of the Rules of Procedure and Evidence (the "Rules"), such as to ensure the smooth running of the ongoing investigation and guarantee the protection of the witnesses and victims. They are therefore justified.

7. Furthermore, the Pre-Trial Judge considers that the request for the issuance of arrest warrants and international arrest warrants is justified. It is based, in fact, on the substantiated risks that the Accused might escape justice, intimidate witnesses and commit further offences, pursuant to Rule 79 of the Rules, as justified in the body of those arrest warrants. How the arrest warrants and international arrest warrants are to be executed is set out in the arrest warrants themselves. They annul and replace the arrest warrants and international arrest warrants issued respectively on 28 June 2011 and 8 July 2011.⁷

8. Lastly, the Pre-Trial Judge invites the Registrar to transmit to the authorities of the Lebanese Republic – the State of nationality of the Accused and of their last known residence – a copy of the Indictment of 6 February 2013 redacted in accordance with Rules 71 (D) and 76 of the Rules.

the Pre-Trial Judge's Decision of 12 April 2013 & Request for Amended Arrest Warrants and Orders/Requests for Transfer and Detention", 24 April 2013, paras 8-11.

⁶ *Id.*, paras 12-15.

⁷ STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/1/PTJ, Warrant to Arrest Mr Salim Jamil Ayyash Including Transfer and Detention Order, 28 June 2011; Warrant to Arrest Mr Mustafa Amine Badreddine Including Transfer and Detention Order, 28 June 2011; Warrant to Arrest Mr Hussem Hassan Oneissi Including Transfer and Detention Order, 28 June 2011, Warrant to Arrest Mr Assad Hassan Sabra Including Transfer and Detention Order, 28 June 2011; International Warrant to Arrest Mr Salim Jamil Ayyash Including Transfer and Detention Request, 8 July 2011; International Warrant to Arrest Mr Mustafa Amine Badreddine Including Transfer and Detention Request, 8 July 2011; International Warrant to Arrest Mr Hussem Hassan Oneissi Including Transfer and Detention Request, 8 July 2011; International Warrant to Arrest Mr Assad Hassan Sabra Including Transfer and Detention Request, 8 July 2011. A rectification to the arrest warrant and to the international arrest warrant against Mr Badreddine was filed on 20 September 2011; STL, *The Prosecutor v Ayyash et al.*, Case No. STL-11-01/1/PTJ, Rectification of the Warrants of 28 June and 8 July 2011 to Arrest Mr Mustafa Amine Badreddine, 20 September 2011.

FOR THESE REASONS,

Pursuant to Rules 71 (D), 76, 79, 84 and 96 (B) of the Rules,

THE PRE-TRIAL JUDGE,

AUTHORISES the Prosecution to file a public redacted version of the Indictment of 6 February 2013 consistent with that in Annex (B) to the Request of 17 April 2013;

ISSUES an arrest warrant and an international arrest warrant, which will be the subject of separate documents, against each Accused, annulling and replacing the arrest warrant of 28 June 2011 and the international arrest warrant of 8 July 2011 issued against that Accused; and

ORDERS the Registrar to notify the competent Lebanese authorities of the redacted Indictment of 6 February 2013.

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

Leidschendam, 27 May 2013

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[signature]

Daniel Fransen
Pre-Trial Judge

