



### 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: **14 June 2013**

Original language: **English**

Classification: **Public**

### THE PROSECUTOR

v.

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

### ORDER GRANTING THE SABRA DEFENCE REQUEST FOR LEAVE TO REPLY TO THE PROSECUTION CONSOLIDATED RESPONSE TO THE SABRA DEFENCE MOTIONS FOR DISCLOSURE ORDERS

**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 request (the “Request”)<sup>1</sup> filed by Counsel for Mr. Assad Hassan Sabra (the “Sabra Defence”), seeking leave to reply to the Prosecution’s consolidated response (the “Response”)<sup>2</sup> to two motions for disclosure filed by the Sabra Defence (the “Disclosure Motions”).<sup>3</sup> The Prosecution has indicated that it does not intend to reply to the Request.

2. In the Request, the Sabra Defence submits that the argumentation in the Response relies in part on a decision on disclosure rendered by the Pre-Trial Judge on 24 May 2013 (the “Decision”),<sup>4</sup> after the filing of the Disclosure Motions.<sup>5</sup> Since the Disclosure Motions predate the Decision, the Sabra Defence submits that it “was not able to take the Decision into consideration in making its submissions.”<sup>6</sup>

3. The Pre-Trial Judge recalls that requests to file a reply should be limited to the rare circumstances that justify them and to the new issues that have arisen from the response concerned.<sup>7</sup> In this instance, since the Decision was rendered between the filing of the Disclosure Motions and the Response, the fact that the Prosecution was able to rely on it while the Sabra Defence was not constitutes exceptional circumstances justifying a reply. However, as noted by the Sabra Defence, the reply shall be limited to “any submissions made by the Prosecution regarding the Decision of 24 May 2013, namely at paragraphs 66-68 of the Response.”<sup>8</sup>

4. Noting the extremely limited scope of the reply, the Pre-Trial Judge uses his discretion under Rule 9(A)(i) to avoid further delays and orders the Sabra Defence to file its reply by 21 June 2013 at the latest.

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<sup>1</sup> STL, *Prosecutor v. Ayyash et al*, Case No. STL-11-01/PT/PTJ, Defence Request for Leave to Reply to the “Prosecution Consolidated Response to the Sabra Defence’s 10<sup>th</sup> and 11<sup>th</sup> Motions for Orders for Disclosure”, confidential, 11 June 2013. All further references to filings and decisions relate to this case number unless otherwise stated.

<sup>2</sup> Prosecution Consolidated Response to the Sabra Defence’s 10<sup>th</sup> and 11<sup>th</sup> Motions for Orders for Disclosure, confidential, 6 June 2013, with a corrigendum and a corrected version filed on 7 June 2013.

<sup>3</sup> Sabra’s Tenth Motion for an Order for Disclosure – Rule 113 of the Rules of Procedure and Evidence, confidential, 22 May 2013; Sabra’s Eleventh Motion for an Order for Disclosure – Rules 110(A)(ii) and 113 of the Rules of Procedure and Evidence, confidential, 23 May 2013.

<sup>4</sup> Decision on Sabra’s Seventh Motion for Disclosure – Experts, 24 May 2013.

<sup>5</sup> Request, para. 5.

<sup>6</sup> *Ibid.*

<sup>7</sup> Order in Respect of 10 July 2012 Motion by the Defence of Mr. Badreddine, 12 July 2012, para. 3, citing: ICTY, *Prosecutor v Karadžić*, Case No.IT-95-5/18-T, Decision on Prosecution Request for Leave to Reply to “Second Supplemental Response to Motion for Judicial Notice of Documents”, 15 March 2010, p. 2. See also ICTY, *Prosecutor v. Strugar et al*, Case No. IT-01-42-AR72, Decision on “Prosecution’s application for leave to file a reply to the Defence’s reply to the Prosecution’s response to the Defence’s brief on interlocutory appeal on jurisdiction”, 12 September 2002.

<sup>8</sup> Request, para. 7.

**FOR THESE REASONS,**

**THE PRE-TRIAL JUDGE,**

**PURSUANT TO** Rules 8 and 9(A)(i) of the Rules,

**GRANTS** the Request; and

**ORDERS** the Sabra Defence to file its reply by 21 June 2013 at the latest.

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

Leidschendam, 14 June 2013



Daniel Fransen  
Pre-Trial Judge

