



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE APPEALS CHAMBER

Case No.: STL-11-01/PT/AC/AR90.2

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

Registrar: Mr Daryl Mundis, Acting Registrar

Date: 19 July 2013

Original language: English

Classification: Public

THE PROSECUTOR

v.

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

**ORDER BY JUDGE RAPPOREUR ON APPEAL BRIEF BY COUNSEL FOR
MR ONEISSI AND PROSECUTOR'S RESPONSE BRIEF**

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



1. The Appeals Chamber is seized with three appeals filed by counsel for Messrs Sabra,¹ Badreddine² and Oneissi³ against the Trial Chamber's "Decision on Alleged Defects in the Form of the Amended Indictment."⁴ Pursuant to Rule 36 (A) of the Rules of Procedures and Evidence ("Rules"), I have been designated the Judge Rapporteur in this matter.

2. I note that the brief filed by the Oneissi Defence is in excess of the permitted word limit of 6,000 words. However, the brief inaccurately indicates a word count of only 5,304 words. After verifying against the MS Word version of the brief received from the CMSS it appears that the Oneissi Defence failed to include the text in the footnotes in their word count. When adding this text, the brief's word count rises to 6,751 words.

3. Article 5 of the Practice Direction on Filings before the Special Tribunal for Lebanon ("Practice Direction")⁵ specifies that the brief in an interlocutory appeal shall not exceed 6,000 words. It also provides that headings, footnotes and quotations count towards this limit. The Oneissi brief is therefore more than 10 percent over the permitted limit. Under the Practice Direction Oneissi's counsel is required to seek leave in advance to exceed the word limit and must provide an explanation of the exceptional circumstances that necessitate the oversized filing. He has failed to do so.

4. Ordinarily, the Appeals Chamber could reject the appeal in its entirety.⁶ However, in the circumstances of this case, it is in the interests of justice to permit counsel for Oneissi to re-file his brief by 22 July 2013 and in compliance with the Practice Direction. I remind counsel that this is not an opportunity to raise new arguments in his brief.⁷ I also urge all parties to comply with the relevant provisions of the Practice Direction in the future.

¹ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR90.2, Sabra Defence Appeal of the Decision on Alleged Defects in the Form of the Amended Indictment, 15 July 2013 (a corrected version was filed on 16 July 2013).

² STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR90.2, *Mémoire d'appel de la Défense de M. Badreddine à l'encontre de la Décision de la Chambre de première instance du 12 juin 2013 relative aux exceptions préjudicielles fondées sur des vices de forme de l'Acte accusation*, 17 July 2013.

³ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR90.2, Oneissi Defence Appeal of the Decision on the Alleged Defects in the Form of the Amended Indictment, 17 July 2013.

⁴ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/TC, Decision on Alleged Defects in the Form of the Amended Indictment, 12 June 2013.

⁵ STL/PD/2010/01/Rev.2, 14 June 2013.

⁶ Cf. ICC, *Prosecutor v. Lubanga*, ICC-01/04-01/06 OA 18, Decision on the "Observations de la Défense relatives à l'irrecevabilité du « Prosecution's Document in Support of Appeal against Trial Chamber I's decision of 8 July to stay the proceedings for abuse of process », daté du 26 juillet 2010", 30 July 2012, para. 14; ICTY, *Prosecutor v. Šešelj*, IT-03-67-R77.3-A, Decision on *Amicus Curiae* Prosecutor's Motion to Strike the Appellant's Brief and Urgent Motion for Stay of Deadline, 23 April 2012, para. 8.

⁷ See ICTY, *In the Case Against Florence Hartmann*, IT-02-54-R77.5-A, Decision on Further Motions to Strike, 17 December 2009, para. 11.

5. In addition, in the interests of expeditiousness and judicial economy, I order the Prosecutor to file a consolidated response brief in relation to all three appeals.⁸ This brief may not exceed 11,000 words. It must be filed by 1 August 2013.

DISPOSITION

FOR THESE REASONS;

PURSUANT to Rules 8, 9, 36 (B), 176 (B) of the Rules and Article 5 of the Practice Direction;

I

STRIKE the appeal brief filed by the Defence for Mr Oneissi;

ORDER the Defence for Mr Oneissi to re-file the appeal brief in compliance with Article 5 of the Practice Direction by 22 July 2013, 4 pm; and

ORDER the Prosecutor to file a consolidated response to all three Defence appeals not exceeding 11,000 words by 1 August 2013, 4 pm.

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

Dated 19 July 2013

Leidschendam, the Netherlands



Judge Daniel David Ntanda Nsereko
Judge Rapporteur



⁸ See STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR90.1, Scheduling Order on Interlocutory Appeals, 27 August 2012, para. 2.