



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE PRESIDENT

Case No.: STL-11-01/T/PRES

Before: Judge Ivana Hrdličková, President

Registrar: Mr Daryl Mundis

Date: 19 April 2018

Original language: English

Classification: Public

THE PROSECUTOR

v.

**SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

**ORDER SEEKING SUBMISSIONS ON THE APPLICATION TO SET ASIDE THE
DESIGNATION OF JUDGES TO A PANEL DESIGNATED
PURSUANT TO RULE 25 (C)**

Office of the Prosecutor:

Mr Norman Farrell & Mr Nigel Povoas

Defence Office:

Ms Héleyn Uñac

**Legal Representatives of
Participating Victims:**Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra**Counsel for Mr Salim Jamil Ayyash:**Mr Emile Aoun, Mr Thomas Hannis
& Mr Chad Mair**Counsel for Mr Hassan Habib Merhi:**Mr Mohamed Aouini,
Ms Dorothée Le Fraper du Hellen
& Mr Jad Youssef Khalil**Counsel for Mr Hussein Hassan Oneissi:**Mr Vincent Courcelle-Labrousse,
Mr Yasser Hassan
& Ms Natalie von Wistinghausen**Counsel for Mr Assad Hassan Sabra:**Mr David Young, Mr Geoffrey Roberts
& Ms Sarah Bafadhel

1. On 13 April 2018, the Registry distributed a motion filed by the Oneissi Defence pursuant to Rule 25 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) on 12 April 2018, seeking the disqualification and withdrawal of the three Trial Chamber Judges, Presiding Judge David Re, Judge Janet Nosworthy and Judge Micheline Braidy.¹

2. On 13 April 2018, pursuant to Rule 25 (C) of the Rules and in accordance with the Practice Direction on Designation of Panel in Matters of Excusal and Disqualification of Judges,² I designated a Panel to determine the Disqualification Motion, composed of Judge Daniel David Ntanda Nsereko, Judge Walid Akoum, and Judge Nicola Lettieri (“Panel”), none of whom sought to be excused pursuant to Rule 25 (B) of the Rules.³

3. On 16 April 2018, the Panel issued an order inviting Judge Re, Judge Nosworthy and Judge Braidy to submit their views on the Disqualification Motion in writing by 18 April 2018.⁴

4. On 18 April 2018, Judge Re and Judge Nosworthy filed before me a joint application requesting that I:

(1) set aside [my] order of 13 April 2018 designating Judges Akoum and Lettieri as members of the Rule 25 (C) Panel and (2) [] re-designate a Panel composed of another international judge and another Lebanese judge who are on the next roster of judges to hear matters involved in the disqualification of judges.⁵

5. I note that both the Tribunal’s Statute and Rules are silent as to whether a Judge, with respect to whom a Panel has been constituted pursuant to Rule 25 (C) of the Rules to determine a motion seeking that Judge’s disqualification, is entitled to seek relief of the kind now sought by Judge Re and Judge Nosworthy. Nonetheless, in my view, the good administration of justice and the principle of transparency in particular demand that Judge Re

¹ Public Redacted Version of Oneissi Defence Rule 25 Motion for the Disqualification and Withdrawal of Presiding Judge David Re, Judge Janet Nosworthy, and Judge Micheline Braidy (“Disqualification Motion”), 12 April 2018.

² STL-PD-2015-08-Rev.1, Practice Direction on Designation of Panel in Matters of Excusal and Disqualification of Judges, 28 February 2018 (“Practice Direction”).

³ Order Designating Panel Pursuant to Rule 25 (C), 13 April 2018.

⁴ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/OTH/R25, Order Inviting Judges’ Views Pursuant to Rule 25 (C), 16 April 2018.

⁵ Application by Judges Re and Nosworthy to Set Aside the President’s Designation of Alternate Judges Akoum and Lettieri to a Panel Designated Pursuant to Rule 25 (C) on the Oneissi Defence’s Application to Disqualify the Three Trial Chamber Judges (“Joint Application of Judge Re and Judge Nosworthy”), 18 April 2018, para. 21.

and Judge Nosworthy, should be afforded the right to express, and have considered, the concerns they raise as to the composition of the panel composed pursuant to that Rule to determine the Disqualification Motion.⁶

6. Likewise, in the exceptional circumstances that a Judge contests the designation of another Judge (or Judges) to a panel designated pursuant to Rule 25 (C) to determine a request for disqualification of the former, those same fundamental principles warrant providing the Judge (or Judges) whose designation is contested with the opportunity to submit their views. For these reasons, I consider it appropriate to invite Judge Akoum and Judge Lettieri to submit, in writing, their views on the Joint Application of Judge Re and Judge Nosworthy.

7. Considering that the Panel was constituted to determine the Disqualification Motion filed by the Oneissi Defence, I am of the opinion that, in the instant case, the interests of justice and the principle of transparency warrant inviting the Oneissi Defence to submit their written views on the matter.

8. For the above reasons and with a view to facilitating the expeditious resolution of the matter, I invite Judge Akoum, Judge Lettieri and the Oneissi Defence to submit their views in writing by Monday, 23 April 2018.

⁶ Incidentally, I am of the view that the interests of justice would be served by Judge Akoum and Judge Lettieri not participating in proceedings relating to the Disqualification Motion until determination of the Joint Application of Judge Re and Judge Nosworthy.

DISPOSITION

FOR THESE REASONS;

PURSUANT to Rule 32 (B) of the Rules,

I

INVITE Judge Akoum, Judge Lettieri and the Oneissi Defence to submit their views on the Joint Application of Judge Re and Judge Nosworthy in writing by Monday, 23 April 2018.

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

Dated 19 April 2018

Leidschendam, the Netherlands



Judge Ivana Hrdličková

President

