



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE VICE PRESIDENT

Case No.: STL-18-10/MISC.2/PRES
Before: Judge Ralph Riachy, Vice President
Registrar: Mr Daryl Mundis
Date: 28 November 2019
Original language: English
Classification: Public

THE PROSECUTOR

v.

SALIM JAMIL AYYASH

ORDER DESIGNATING PANEL PURSUANT TO RULE 25 (B)

Office of the Prosecutor:
Mr Norman Farrell

Defence Office:
Ms Dorothee Le Fraper Du Hellen



1. The Appeals Chamber of the Special Tribunal for Lebanon is currently seized of an appeal filed by Judge David Re against the Order of the President convening Trial Chamber II.¹ The President submitted before the Appeals Chamber Judges an Internal Memorandum in which she recuses herself from sitting on the appeal, given that the appeal relates to an order that she issued in her capacity as President of the Tribunal.²

2. Given the content of the President's Internal Memorandum,³ I treat it as a request under Rule 25 of the Rules of Procedure and Evidence ("Rules") to be excused from sitting on the appeal. Under the clear terms of the Rule, a three-judge panel must be designated.

3. Rule 25 (B) governs the procedure for excusal of a Judge and states in relevant part:

A Judge seeking to be excused from exercising functions upon the grounds specified in paragraph (A) or for any other serious reason shall make a request in writing to the President. The President shall designate a panel of three Judges in accordance with the relevant Practice Direction to determine whether the Judge should be excused.

4. Moreover, Rule 25 (F) states:

If the President is the Judge the subject of the application, the most senior uninvolved Judge, according to Rule 30 (B), shall assume the President's responsibility under this Rule.

5. Considering that the President is the Judge whose excusal is sought, the Vice President shall assume the President's responsibility for the purpose of designating a panel of three Judges to rule on her excusal.

6. Pursuant to Rule 25 (F) and Article 1 of the Practice Direction on Designation of Panel in Matters of Excusal and Disqualification of Judges ("Practice Direction"),⁴ the Vice President shall designate the panel of three Judges from a pre-determined roster of all Judges of the Tribunal. If one or more Judges are unable to sit on a panel, the Vice President shall

¹ STL, *Prosecutor v. Salim Jamil Ayyash*, STL-18-10/MISC.2, F0001, Appeal against Decision of President Convening Trial Chamber II, 26 November 2019.

² Internal Memorandum from the President sent to the Appeals Chamber Judges by email, 27 November 2019.

³ In her Internal Memorandum, the President explains the reasons for her recusal as follows: "Given that the appeal relates to an order that I have issued in my capacity as President, it is apparent that I cannot participate in the determination of that appeal or ancillary issues arising from it. This principle is settled law and acknowledged in previous determinations of the Appeal Chamber.

It is for these reasons that I must necessarily recuse myself from participating as a member of the Appeals Chamber in relation to this matter".

⁴ STL-PD-2015-08-Rev.1, Practice Direction on Designation of Panel in Matters of Excusal and Disqualification of Judges, 28 February 2018.

designate the next Lebanese or international Judge or Judges on the roster, as appropriate.⁵
The Presiding Judge of the panel is determined according to precedence under Rule 30 (B).⁶

7. In conformity with the Practice Direction, I order that the panel be composed of Judge Afif Chamseddine, Judge Daniel Fransen and Judge Daniel David Ntanda Nsereko. It must be noted that, pursuant to Rule 25 (D), pending a decision under Rule 25 (B), the Judge whose disqualification is sought shall not participate in the proceedings unless the panel decides otherwise.

DISPOSITION

FOR THESE REASONS;

PURSUANT to Rule 25 (B), Rule 25 (F) and the Practice Direction,

I

DESIGNATE a Panel of three Judges to determine the matter; and

ORDER that this Panel be composed as follows:

Judge Daniel Fransen, Presiding

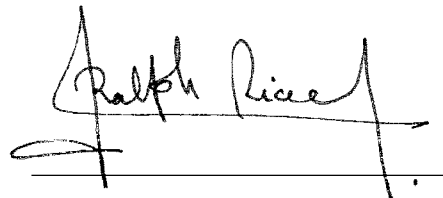
Judge Afif Chamseddine

Judge Daniel David Ntanda Nsereko.

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

Dated 28 November 2019

Leidschendam, the Netherlands



Judge Ralph Riachy

Vice-President

⁵ Practice Direction, Art. 1 (2).

⁶ Practice Direction, Art. 1 (4).

