

BEFORE THE TRIAL CHAMBER
SPECIAL TRIBUNAL FOR LEBANON

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

Before: Judge David Re, Presiding
Judge Janet Nosworthy
Judge Micheline Braidy
Judge Walid Akoum, Alternate Judge
Judge Nicola Lettieri, Alternate Judge

The Registrar: Mr Daryl Mundis

Date: 28 January 2016

Filing party: The Defence Office

Original language: French

Classification: Public

THE PROSECUTOR
v.
SALIM JAMIL AYYASH
MUSTAFA AMINE BADREDDINE
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA

Withdrawal of the Assignment of Second Co-counsel, Mr Philippe Larochelle, pursuant to Article 34 (A) of the Directive on the Appointment and Assignment of Defence Counsel

Defence Office
Mr François Roux

Defence for Mr Salim Jamil Ayyash
Mr Eugene O'Sullivan, Mr Emile Aoun
& Mr Thomas Hannis

Office of the Prosecutor
Mr Norman Farrell

Defence for Mr Mustafa Amine Badreddine
Mr Antoine Korkmaz, Mr Iain Edwards
& Ms Mylène Dimitri

Legal Representatives of Victims
Mr Peter Haynes, Mr Mohammad F. Mattar
& Ms Nada Abdelsater-Abusamra

Defence for Mr Hassan Habib Merhi
Mr Mohamed Aouini, Ms Dorothee Le Fraper du
Hellen & Mr Jad Youssef Khalil

Defence for Mr Hussein Hassan Oneissi
Mr Vincent Courcelle-Labrousse, Mr Yasser Haya
& Mr Philippe Larochelle

Defence for Mr Assad Hassan Sabra
Mr David Young, Mr Guénaél Mettraux
& Mr Geoffrey Roberts



I. INTRODUCTION

1. On 31 December 2013, the Head of Defence Office assigned Mr Philippe Larochelle as second Co-counsel, alongside Mr Vincent Courcelle-Labrousse and Mr Yasser Hassan, Lead Counsel and Co-counsel respectively, to represent the rights and interests of the accused Mr Hussein Hassan Oneissi in the *in absentia* proceedings brought against him before the Special Tribunal for Lebanon (“STL”) in the *Ayyash et al.* case.¹
2. The trial in the *Ayyash et al.* case started on 16 January 2014.²
3. On 14 December 2015, Mr Vincent Courcelle-Labrousse informed the Head of Defence Office that he had accepted the resignation of Mr Philippe Larochelle from his duties as second Co-counsel, for family reasons which prevent him from ensuring the required availability laid down in the Legal Aid Policy for the Defence.³ Mr Courcelle-Labrousse also confirmed that the resignation would not prejudice the rights and interests of Mr Oneissi or give rise to requests for additional time from the Trial Chamber.⁴
4. On 21 December 2015, the Head of Defence Office consulted the Trial Chamber pursuant to the provisions of Article 34 of the Directive on the Appointment and Assignment of Defence Counsel (the “Directive”).⁵
5. On 21 January 2016, the Presiding Judge of the Trial Chamber, Mr David Re, sent a Memorandum to the Head of Defence Office in which he stated that, following the consultation of the previous day, the Chamber was satisfied that the replacement of Mr Philippe Larochelle, from 1 March 2016, by a new second co-counsel would make it possible to ensure Mr Oneissi’s right to a fair trial. The Trial Chamber also expressed confidence that the Head of Defence Office would continue to ensure that such was the case after the new second co-counsel had been appointed.⁶

¹ STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/HDO, Assignment of a Second Co-Counsel, 31 December 2013.

² STL, *Prosecutor v. Ayyash et al.*, STL-11-01, TS (FR) 16 January 2014.

³ Correspondence from Mr Vincent Courcelle-Labrousse to the Head of Defence Office dated 14 December 2015; *See also* Legal Aid Policy for Defence, STL/PL/2015/02, Art. 5.2.

⁴ E-mail from Mr Vincent Courcelle-Labrousse to the Head of Defence Office dated 21 December 2015.

⁵ Internal Memorandum from the Defence Office to the Trial Chamber, 21 December 2015 (Ref. 5332.151221-5974).

⁶ Internal Memorandum from the Trial Chamber to the Head of Defence Office, 21 January 2016.

II. APPLICABLE LAW

6. **NOTING** Article 13 of the Statute of the STL (“Statute”), which gives the Head of Defence Office the mandate to protect the rights of the Defence.
7. **NOTING** Rule 57 (G) of the Rules of Procedure and Evidence of the STL (“Rules”), which gives the Head of Defence Office the mandate to, “in the interests of justice, ensure that the representation of suspects and accused meets internationally recognised standards of practice and is consistent with the provisions of the Statute, the Rules, the Code of Professional Conduct for Counsel, the Directive on the Appointment and Assignment of Defence Counsel”;
8. **NOTING** Article 7 (F) of the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the STL (“Code of Conduct”), which provides that counsel “may terminate the representation agreement if such termination may be accomplished without material adverse effect on the interests of the Client and where good cause is shown”;
9. **NOTING** Article 7 (H) of the Code of Conduct, which sets forth that: “Defence Counsel who terminates a representation agreement under paragraphs (D) and (F) shall continue to act in accordance therewith until his request to terminate has been accepted by the Head of the Defence Office and he has been replaced. Defence Counsel’s duties towards the Client continue until this replacement, except for those duties which continue to exist under this Code”;
10. **NOTING** Article 34 (A) of the Directive which provides that “[w]ith a view to the fairness of the proceedings, and after consulting the Pre-Trial Judge or Chamber, the Head of Defence Office may decide to withdraw [...] the assignment of counsel, by a written reasoned decision applying the standards set out in Article 7 of the Defence and Victims Code of Conduct [...] at the request of counsel in question”;
11. **NOTING** Article 35 (A) (i) of the Directive, which provides that “[a]ppointed or assigned counsel shall continue to act until [...] replacement counsel has been assigned by the Head of Defence Office”;
12. **NOTING** Article 35 (B) of the Directive and Chapter 15 of the Legal Aid Policy for the Defence, which set out the arrangements for the transfer of the case file by the counsel being replaced to the replacement counsel;

III. REASONS FOR THE DECISION

13. **CONSIDERING** that Mr Philippe Larochelle, stating that family reasons constitute exceptional circumstances which prevent him from continuing to defend the rights and interests of Mr Oneissi, has clearly expressed his wish to terminate his representation agreement.

14. **CONSIDERING** that Mr Vincent Courcelle-Labrousse, Lead Counsel of the Oneissi defence team, has assured the Head of Defence Office that the resignation of Mr Philippe Larochelle from his duties as second Co-counsel would not have any prejudicial effect on the rights and interests of Mr Oneissi and will not give rise to requests for additional time from the Trial Chamber.⁷

15. **CONSIDERING** that in addition to Mr Philippe Larochelle, two other counsel, Mr Courcelle-Labrousse and Mr Hassan, represent the rights and interests of Mr Oneissi, thus ensuring continuity of the representation of the rights and interests of the accused;

16. **CONSIDERING** that Mr Courcelle-Labrousse has already initiated the necessary consultations for the recruitment of a new second co-counsel who will be able to assume duty as from 1 March 2016.⁸

17. **CONSIDERING** that Mr Larochelle has undertaken to continue to act in accordance with his representation agreement until such time as a second co-counsel has been appointed in order to ensure the smooth transition of the case file.

18. **THAT AS A CONSEQUENCE**, the Head of Defence Office finds that there is good cause to withdraw the appointment of Mr Larochelle and that such withdrawal will not have a material adverse effect on the interests of the accused Mr Oneissi.

19. **CONSIDERING** that the present withdrawal decision has been taken in consultation with the Trial Chamber, pursuant to Article 34 of the Directive.

⁷ Correspondence from Mr Vincent Courcelle-Labrousse to the Head of Defence Office dated 14 December 2015; E-mail from Mr Vincent Courcelle-Labrousse to the Head of Defence Office dated 21 December 2015.

⁸ Letter from Mr Vincent Courcelle-Labrousse to the Head of Defence Office dated 14 December 2015.

FOR THESE REASONS

Noting Article 13 of the Statute, Rule 57 (G) of the Rules, Articles 7 (F) and (H) of the Code of Conduct, Article 34 (A) of the Directive, and Chapter 15 of the Legal Aid Policy for the Defence,

20. **THANKS** Mr Philippe Larochelle for his contribution to the Defence of the rights and interests of the accused Mr Hussein Hassan Oneissi over the past years;

21. **GRANTS** the request of Mr Philippe Larochelle and withdraws his assignment as second Co-counsel for the accused Mr Hussein Hassan Oneissi in the present case from 1 March 2016.

Without prejudice.

François Roux

[signature]

Head of Defence Office

Done at Leidschendam, 28 January 2016

Word count: 1296 [French original]

