

**THE PRESIDENT OF THE TRIBUNAL**

**Case No.:** CH/PRES/2010/10  
**Before:** Judge Antonio Cassese  
**Acting Registrar:** Mr Herman von Hebel  
**Date:** 11 November 2010  
**Original language:** English  
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**ORDER ON FILING OF 9 NOVEMBER 2010 BY MR EL SAYED**

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**Counsel:**  
Mr Akram Azoury

**The Prosecutor:**  
Mr Daniel Bellemare, MSM, QC

**The Head of the Defence Office:**  
Mr François Roux





I, **ANTONIO CASSESE**, **President** of the Special Tribunal for Lebanon (“Tribunal”) am seized of “*Demande du Général El Sayed aux fins du réexamen par le Président de sa « Decision on Mr. El Sayed’s motion for the disqualification of Judge Riachi from the Appeal’s Chamber pursuant to rule 25 »*” (“Application”) for reconsideration under Rule 140 of my decision of 5 November 2010.

The Application was received by the Registry of the Tribunal at 16:03 hours on 9 November 2010. Upon consultations with me, Registry staff returned the Application because Mr El Sayed had not requested leave to file it, as required under Rule 140, assuming but not conceding that this Rule is applicable to the case at hand. The Registry, acting as it does “[u]nder the authority of the President” (Rule 48), is expected to consult on these matters with Chambers in order to exercise its discretion in the most appropriate manner. In this case, due to possible uncertainties about, *inter alia*, (i) the authority of the President to reconsider his previous decisions under Rule 140 within proceedings not falling within the primary jurisdiction of the Tribunal and (ii) the exact functioning of the rule in question and the interaction between the Practice Direction on Filings of Documents Before the Special Tribunal for Lebanon (STL-PD-2010-01) and the Rules of Procedure and Evidence, the best course of action was deemed to be to request that Mr El Sayed first comply with the requirements of Rule 140, instead of outright rejecting his Application due to such failure.

At 18:07 hours on 9 November 2010, the Registry notified Mr El Sayed that his Application should be re-filed in compliance with Rule 140. In the form sent to Mr El Sayed, the Registry omitted to specify that the Application was returned upon my instructions.

Mr El Sayed chose not to comply with these instructions, and at 12:50 hours of 10 November 2010, *i.e.*, a few hours after having been notified of the Appeals Chamber’s unanimous ‘Decision on Appeal of Pre-Trial Judge’s Order Regarding Jurisdiction and Standing’, he requested via facsimile that the Registry reconsider its decision to return and not file his Application. After further consultations with me, the Registry took the



exceptional step of acceding to this second request and placed the Application of Mr El Sayed on the record.

I would only note at this point that participants in proceedings before the Tribunal are required and expected to comply with instructions received from Chambers and Registry. If they disagree with a specific instruction, they may avail themselves of the procedures set forth to seek redress. A court of law cannot properly function without compliance, by all those concerned, with its orders and instructions. The Registry should of course always duly explain the reasons why a submission is returned, so that the process followed is properly recorded.

Turning to the merits of the Application, on the basis of Mr El Sayed's failure to request leave to seek reconsideration as required under Rule 140.

I hereby **REJECT** the application for reconsideration under Rule 140.

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

Dated this 11th day of November 2010.

Leidschendam, The Netherlands

Judge Antonio Cassese  
President

