

**BEFORE THE APPEALS CHAMBER**

Case No.: CH/AC/2011/01

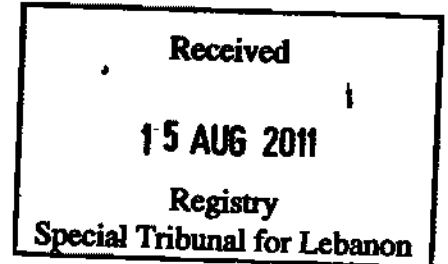
Before: Judge Antonio Cassese, Presiding
Judge Ralph Riachy
Judge Sir David Baragwanath
Judge Afif Chamsedinne
Judge Kjell Erik Björnberg

Registrar: Mr. Herman von Hebel

Date: 15 August 2011

Original language: English

Type of document: Public



ORDER ON « APPEL DE LA DÉCISION DU JUGE DE LA MISE EN ÉTAT DATÉE DU 22 JUILLET 2011 « RELATIVE À LA REQUÊTE URGENTE DU 14 JUILLET 2011 DU PROCUREUR AUX FINS DE SUSPENSION DES EFFETS DE LA DÉCISION DU 6 JUILLET 2011 ET AUX REQUÊTES COMPLÉMENTAIRES DES 15 ET 21 JUILLET 2011 DU PROCUREUR » »

Counsel:
Mr. Akram Azoury

Office of the Prosecutor:
Mr. Daniel A. Bellemare, MSM, Q.C.
Mr. Daryl A. Mundis
Mr. Ekkehard Withopf
Mr. David Kinnecome
Ms. Marie-Sophie Poulin

Head of the Defence Office:
Mr. François Roux





CONSIDERING that on 21 July 2011, the Pre-Trial Judge of the Special Tribunal for Lebanon (“STL” or “Tribunal”) issued the « Décision relative à la Requête urgente du 14 juillet 2011 du Procureur aux fins de suspension des effets de la décision du 6 juillet 2011 et aux requêtes complémentaires des 15 et 21 juillet 2011 du Procureur » in the proceedings between Mr. Jamil El Sayed (“Mr. El Sayed”) and the Prosecutor of the Tribunal, in which the Pre-Trial Judge *inter alia* stayed the enforcement of his Decision of 6 July 2011 and of paragraph 5 of the disposition of his Decision of 12 May 2011, until 19 August 2011 or, if necessary, until the Pre-Trial Judge rules on any protective measures requested by the Prosecutor.¹

CONSIDERING also that on 1 August 2011, Mr. El Sayed lodged an appeal against the Pre-Trial Judge’s Decision of 21 July 2011 in which he asserted that the appeal did not require certification pursuant to Rule 126 of the Tribunal’s Rules of Procedure and Evidence (“Rules” or “RPE”), but in which he also added that if the Appeals Chamber were to find that such certification was required, he had applied to the Pre-Trial Judge for certification and therefore the appeal was submitted as a precautionary measure;²

NOTING that after receiving the Parties’ submissions on the request for certification, the Pre-Trial Judge issued, on 9 August 2011, the « Décision relative à la demande de M. El Sayed du 1^{er} Août 2011 aux fins de certification de l’appel de la décision du Juge de la mise en état du 21 juillet 2011 », in which he rejected the request for certification;³

NOTING that the Pre-Trial Judge’s decision of 9 August 2011 relies on the Appeals Chamber’s binding case-law, stating that – in cases not foreseen by the Rules – certification is normally required

¹ *In re: Application of El Sayed*, Décision relative à la Requête urgente du 14 juillet 2011 du Procureur aux fins de suspension des effets de la décision du 6 juillet 2011 et aux requêtes complémentaires des 15 et 21 juillet 2011 du Procureur, CH/PTJ/2011/13, 21 July 2011.

² *In re: Application of El Sayed*, Appel de la Décision du Juge de la mise en état datée du 22 juillet 2011 « relative à la Requête urgente du 14 juillet 2011 du Procureur aux fins de suspension des effets de la décision du 6 juillet 2011 et aux requêtes complémentaires des 15 et 21 juillet 2011 du Procureur », CH/PTJ/2011/13, 1 August 2011, para. 5.

³ *In re: Application of El Sayed*, Décision relative à la demande de M. El Sayed du 1^{er} août 2011 aux fins de certification de l’appel de la décision du Juge de la mise en état du 21 juillet 2011, CH/PTJ/2011/14, 9 August 2011.



before that Chamber will entertain an interlocutory appeal, *i.e.*, an appeal on a decision other than a final judgment or decision;⁴

CONSIDERING that the Pre-Trial Judge has determined that the decision in question involves no issue that would significantly affect the fair and expeditious conduct of the proceedings *and* for which an immediate resolution by the Appeals Chamber may materially advance the proceedings;

SUCH CONCLUSION being open to the Pre-Trial Judge;

HEREBY DECLARE this appeal to be moot.

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

Filed this 15th day of August 2011,
Leidschendam, The Netherlands

Judge Antonio Cassese
President



⁴ See *In re: Application of El Sayed*, Decision on Partial Appeal by Mr. El Sayed of Pre-Trial Judge's Decision of 12 May 2011, CH/AC/2011/01, 19 July 2011, paras 19 and 20.