

**BEFORE THE APPEALS CHAMBER**

**Filing No.:** CH/AC/2012/01

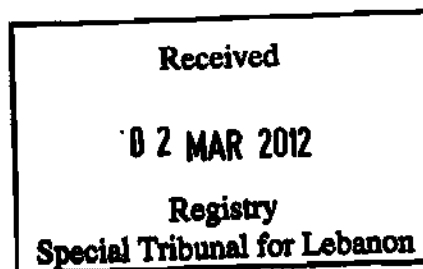
**Before:** Judge Sir David Baragwanath, Presiding  
Judge Ralph Riachy  
Judge Afif Chamseddine  
Judge Kjell Erik Björnberg

**Registrar:** Mr. Herman von Hebel

**Date:** 2 March 2012

**Original language:** English

**Type of document:** Public



---

**SCHEDULING ORDER**

---

**Counsel:**  
Mr. Akram Azoury

**Office of the Prosecutor:**  
Ms. Joyce Tabet (Acting Prosecutor)  
Mr. Daryl A. Mundis  
Mr. Ekkehard Withopf  
Mr. David Kinnecome  
Ms. Marie-Sophie Poulin

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





**THE APPEALS CHAMBER** of the Special Tribunal for Lebanon (“Tribunal”);

**NOTING** that, on 29 February 2012, the Prosecution filed a confidential and *ex parte* partial appeal against the Pre-Trial Judge’s Order of 20 February 2012 in the *El Sayed* matter<sup>1</sup>, and requested that the Appeals Chamber suspend the disclosure order in the Impugned Decision pending appeal;<sup>2</sup>

**NOTING** that, also on 29 February 2011, the Prosecution filed a public redacted version of the Prosecution’s Appeal;<sup>3</sup>

**RECALLING** that, on 1 March 2012, a judicial conference was conducted before the Tribunal’s President, Judge Sir David Baragwanath and Vice-President, Ralph Riachy, at which were present counsel for Mr. Jamil El Sayed, Mr. Akram Azoury (by telephone), the Head of Defence Office, Mr. François Roux, and counsel for the Prosecution, Mr. Daryl Mundis, Mr. Ekkehard Withopf, Mr. David Kinnecome and Ms. Marie-Sophie Poulin;

**NOTING** that during the judicial conference, Mr. Azoury advised that he accepts “redactions for the protection of witnesses and to protect ongoing investigations,” as referred to in paragraph 21 of the Prosecution’s Appeal;

**NOTING** further that, towards the conclusion of the judicial conference, the President invited Judge Chamseddine and Judge Björnberg to take part in it;

**NOTING** that when the judicial conference proceeded before the four Judges of the Appeals Chamber, it was unclear whether Mr. Azoury adhered categorically to his position on redactions for the protection of witnesses and to protect ongoing investigations;

<sup>1</sup> *In the Matter of El Sayed*, CH/PTJ/2012/01, Order relating to the Prosecution’s Submissions filed on 8. 15 and 28 November 2011, 12 and 30 December 2011 and 15 February 2012 and to the Observations from Mr El Sayed of 11 January 2012, 20 February 2012 (“Impugned Decision”).

<sup>2</sup> *In the Matter of El Sayed*, OTP/AC/2012/01 (Confidential and *Ex Parte*), Prosecution’s Partial Appeal of the Pre-Trial Judge’s Order of 20 February 2012 and Request for Suspensive Effect Pending Appeal, 29 February 2012 (“Prosecution’s Appeal”).

<sup>3</sup> *In the Matter of El Sayed*, OTP/AC/2012/01, (Public Redacted) Prosecution’s Partial Appeal of the Pre-Trial Judge’s Order of 20 February 2012 and Request for Suspensive Effect Pending Appeal, 29 February 2012.

**HEREBY DIRECTS:**

1. Mr. Azoury to address in writing his precise position with respect to redactions to documents “for the protection of witnesses and to protect ongoing investigations” (as referred to in paragraph 21 of the Prosecution’s Appeal) by 12pm on Friday, 2 March 2012.
2. The Prosecution to provide further submissions in writing by 5pm on Monday, 5 March 2012, covering the matters identified at the judicial conference, namely:
  - a. the relevant law as to *res judicata* (including both common law and civil law authorities, including Lebanese law);
  - b. whether there are exceptions to this principle, and if so, of what nature;
  - c. the application of the *res judicata* principle to the present facts; and
  - d. the Prosecution’s position in the light of Mr. Azoury’s submission of 2 March 2012.
3. Mr. Azoury may reply to the Prosecution’s submissions by 12pm on Wednesday, 7 March 2012.
4. The Appeals Chamber will adjourn its consideration of the matters raised in the Prosecution’s Appeal, including the request to suspend the Impugned Decision, until a date to be fixed, following receipt of the material referred to in this Order.

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

Filed this second day of March 2012,

Leidschendam, the Netherlands

Judge Sir David Baragwanath  
President

