

**BEFORE THE APPEALS CHAMBER**

Filing No.: CH/AC/2012/02

Before: Judge Sir David Baragwanath, Presiding
Judge Ralph Riachy
Judge Afif Chamseddine
Judge Daniel David Ntanda Nsereko
Judge Kjell Erik Björnberg, Judge Rapporteur

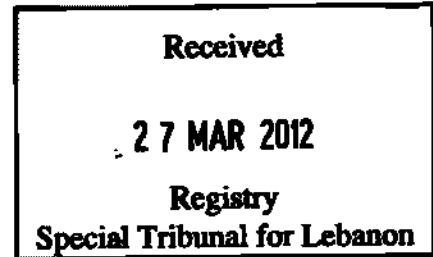
Registrar: Mr. Herman von Hebel

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**ORDER ON PROSECUTION'S REQUEST
FOR SUSPENSIVE EFFECT OF THE PRE-TRIAL JUDGE'S
ORDER OF 20 FEBRUARY 2012**

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INTRODUCTION

1. In the context of ongoing proceedings concerning a request by Mr El Sayed for disclosure of documents in the Prosecutor's custody, the Pre-Trial Judge on 20 February 2012¹ rejected a request by the Prosecutor to redact or withhold disclosure of documents being irrelevant or duplicative to Mr El Sayed's claims, and ordered the Prosecutor to disclose the documents referred to.
2. On 29 February 2012 the Prosecutor filed a partial appeal² before the Appeals Chamber against the decision. The Appeal includes a request by the Prosecutor to suspend the disclosure order in the Impugned Decision.
3. Following a Scheduling Order by the President on 2 March 2012,³ Mr El Sayed submitted a Response to the Appeal.⁴ The Prosecutor filed a further submission on 5 March 2012,⁵ and Mr El Sayed a Reply on 7 March 2012.⁶

GROUND FOR SUSPENSION

4. Pursuant to Rule 126(F) of the Tribunal's Rules of Procedure and Evidence ("Rules"), "[a]n appeal shall not, of itself, have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules."

¹ STL, *In re: Application of El Sayed*, Case No. CH/PTJ/2012/01, Order Relating to the Submissions of the Prosecutor 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").

² STL, *In re: Application of El Sayed*, Case No. OTP/AC/2012/01, 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 ("Appeal").

³ STL, *In re: Application of El Sayed*, Case No. CH/AC/2012/01, Scheduling Order, 2 March 2012.

⁴ STL, *In re: Application of El Sayed*, Case No. OTP/AC/2012/01, Reply to "Prosecution's Partial Appeal of the Pre-Trial Judge's Order of 20 February 2012 and Request for Suspensive Effect Pending Appeal" and Objection to the Request for Suspension, 2 March 2012.

⁵ STL, *In re: Application of El Sayed*, Case No. OTP/AC/2012/01, Prosecution Filing in Compliance with the Scheduling Order of 2 March 2012 and Related Submissions, 5 March 2012.

⁶ STL, *In re: Application of El Sayed*, Case No. OTP/AC/2012/01, Reply by General Jamil El Sayed to "Prosecution Filing in Compliance with the Scheduling Order of 2 March 2012 and Related Submissions" pursuant to the Scheduling Order of 2 March 2012, 7 March 2012.



5. While noting that the matters at issue in the Appeal warrant further consideration, the Appeals Chamber finds that there is sufficient basis to suspend the disclosure order in the Impugned Decision, pending our final determination.

DISPOSITION

FOR THESE REASONS, the Appeals Chamber

SUSPENDS the Impugned Decision; and

WILL pronounce a timetable for further submissions, if necessary.

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

Filed this twenty-seventh day of March 2012,

Leidschendam, the Netherlands

David Baragwanath
Presiding

