



SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE APPEALS CHAMBER

Case No.: CH/AC/2012/01

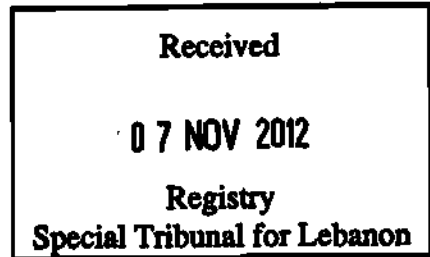
Before: Judge David Baragwanath, Presiding
Judge Ralph Riachy
Judge Affif Chamseddine
Judge Daniel David Ntanda Nsereko
Judge Kjell Erik Björnberg

Registrar: Mr Herman von Hebel

Date: 7 November 2012

Original language: English

Classification: Public



IN THE MATTER OF EL SAYED

ORDER ON REQUEST BY MR EL SAYED FOR LEAVE TO FILE A REPLY

Counsel for Mr El Sayed:
Mr Akram Azoury

Prosecutor:
Mr Norman Farrell

Head of Defence Office:
Mr François Roux





1. We are seized of a partial appeal by Mr Jamil El Sayed¹ against the Pre-Trial Judge's decision of 8 October 2012.² The Prosecutor filed a response to this appeal.³ Mr El Sayed is now requesting leave to file a reply to the Prosecutor's Response⁴ in line with the provisions of Rule 8 of the Rules of Procedure and Evidence.⁵

2. In his Request, the Appellant lists a number of issues raised in the Prosecutor's Response which he argues are crucial for the resolution of this Appeal and require a reply.⁶ The Prosecutor informed us that he does not wish to respond to the Request.⁷

3. We previously held that a reply "must generally be limited to circumstances where new issues arise out of the respondent's brief" and "is not a vehicle for an appellant to simply reiterate or refine the arguments made in the appeal".⁸ All of the issues listed in Mr El Sayed's Request were addressed in his Appeal. He has not identified any new matter arising from the Prosecutor's Response. "Failure to make certain arguments in relation to the issues raised by the appeal[] or a desire to present them differently does not justify leave to file a reply."⁹ We therefore reject the Request.

¹ STL, *In the matter of El Sayed*, Case No. CH/PTJ/2012/05, Partial Appeal of the Pre-Trial Judge's Decision of 8 October 2012 "Setting a Deadline for the Prosecutor to Disclose to Mr El Sayed the Documents Mentioned in the Pre-Trial Judge's Order of 12 May 2011", 11 October 2012 ("Appeal").

² STL, *In the matter of El Sayed*, Case No. CH/PTJ/2012/04, Decision Setting a Deadline for the Prosecutor to Disclose to Mr El Sayed the Documents Mentioned in the Pre-Trial Judge's Order of 12 May 2011, 8 October 2012. The title of the decision initially contained an error, which was later corrected, see STL, *In the matter of El Sayed*, Case No. CH/PTJ/2012/05, Corrigendum to the "Decision Setting a Deadline for the Prosecutor to Disclose to Mr El Sayed the Documents Mentioned in the Pre-Trial Judge's Order of 21 May 2011", 11 October 2012.

³ STL, *In the matter of El Sayed*, Case No. OTP/AC/2012/01, Prosecution Response to Jamil El Sayed's Partial Appeal of the Pre-Trial Judge's Decision of 8 October 2012 "Setting a Deadline for the Prosecutor to Disclose to Mr El Sayed the Documents Mentioned in the Pre-Trial Judge's Order of 12 May 2011", 1 November 2012 ("Response").

⁴ STL, *In the matter of El Sayed*, Case No. OTP/AC/2012/01, Request for Authorisation to File a Reply to "Prosecution Response to Jamil El Sayed's Partial Appeal of the Pre-Trial Judge's Decision of 8 October 2012 'Setting a Deadline for the Prosecutor to Disclose to Mr El Sayed the Documents Mentioned in the Pre-Trial Judge's Order of 12 May 2011'" of 1 November 2012, 5 November 2012 ("Request").

⁵ Rule 8 of the Rules of Procedure and Evidence provides that: "[...] A reply to the response, if any, shall be filed within seven days of obtaining leave of the Pre-Trial Judge or Chamber."

⁶ Request, paras 4-5.

⁷ Email from Office of the Prosecutor Trial Counsel to Appeals Chamber Legal Officer on 6 November 2012.

⁸ See STL, *Prosecutor v Ayyash et al.*, Case No. 11-01/PT/AC/AR126.1, Order on Defence Request for Leave to File a Reply, 8 October 2012 ("Order on Reply"), para. 3; see also STL, *Prosecutor v Ayyash et al.*, Case No. 11-01/PT/AC/AR126.2, Order on Defence Request for Leave to File a Reply, 29 October 2012, para. 4; STL, *Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/AC/AR90.1, Scheduling Order on Interlocutory Appeal, 27 August 2012, para. 2; STL, *Prosecutor v Ayyash et al.*, Case No. STL-11-01/PT/AC/R176bis, Order by the Judge Rapporteur on Filing of Reply, 4 July 2012, para. 2.

⁹ Order on Reply, para. 4



DISPOSITION

FOR THESE REASONS;

THE APPEALS CHAMBER; deciding unanimously;

REJECTS the Request.

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

Dated 7 November 2012,

Leidschendam, the Netherlands

Judge David Baragwanath
Presiding

