

**THE TRIAL CHAMBER**

Case No: STL-11-01/T/TC

Before: Judge David Re, Presiding
Judge Janet Nosworthy
Judge Micheline Braidy
Judge Walid Akoum, Alternate Judge
Judge Nicola Lettieri, Alternate Judge

Registrar: Mr Daryl Mundis

Date: 9 December 2015

Original language: English

Classification: Public

**DECISION VARYING TIME LIMIT FOR THE GOVERNMENT OF THE
LEBANESE REPUBLIC TO RESPOND TO TRIAL CHAMBER'S INVITATION FOR
SUBMISSIONS ON NON-COMPLIANCE (F2327)**

(Extract from Official Public Transcript of Hearing on 9 December 2015, page 57, line 8 to
page 61, line 1)

It's a decision on the extension of a time limit for submissions to the Trial Chamber's "Invitation to the Government of the Lebanese Republic to make submissions in relation to the Sabra Defence request for a finding of noncompliance" of the 17th of November, 2015, which is filing F2327.

The minister of justice of the Lebanese Republic has written to the Registrar requesting an extension of time to make -- in relation to the Trial Chamber's order.

The background is from August 2012 onwards, counsel for the accused Mr. Assad Hassan Sabra sent through the Special Tribunal's Head of Defence Office numerous requests for assistance to the Government of the Lebanese Republic seeking material that they considered relevant and necessary to the trial preparations.

Counsel for Mr. Sabra subsequently filed several motions asking the Pre-Trial Judge and the Trial Chamber, under Rule 20(A) of the Special Tribunal's Rules of Procedure and Evidence, to order the Lebanese government to "search, identify, and provide" the requested

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material. These are in filings F0702, F1079, F1459, and F1811. The motions resulted from what counsel for Mr. Sabra submit are partially or fully unanswered requests for assistance.

On the 31st of January, 2014, 31st of March, 2014, and 27th of March, 2015, the Trial Chamber directed the Government of the Lebanese Republic to cooperate with the Special Tribunal. These are filings F1379, F1471, and F1889.

The Trial Chamber, in a decision of the 27th of March, 2015, instructed counsel for Mr. Sabra to provide the Trial Chamber, within two weeks of the Government of the Lebanese Republic receiving that decision and the annexes to it, in Arabic, with an update as to any progress and to file updates every two weeks thereafter. Counsel for Mr. Sabra have subsequently filed 13 notices describing the progress.

On the 22nd of May, 2015, the Trial Chamber, at the request of the Lebanese government, subdivided the three annexes to its decision of the 27th of March into 25 annexes identifying the specific authority or entity to which the request for assistance should go in Lebanon. The Trial Chamber ordered the Lebanese government to respond to each of the requests for assistance with an explanation as to whether it can comply with the request for assistance, and if not, to explain why not.

On the 24th of August, 2015, counsel for Mr. Sabra filed their “Ninth notice to ‘Decision on updated request for a finding of noncompliance’ and request for a finding of noncompliance” in filing F2139. Counsel requested the Trial Chamber to issue, under Rule 20(C), an immediate finding of noncompliance to the Government of the Lebanese Republic in relation to 21 requests for assistance that counsel for Mr. Sabra submit are outstanding.

On the 17th of November, 2015, the Trial Chamber invited the Government of the Lebanese Republic to file submissions in relation to the 21 requests for assistance that counsel for Mr. Sabra consider to be outstanding within 14 days from receiving the invitation in Arabic. It also directed counsel for Mr. Sabra to file any response to the submissions within ten days. That was in filing F2327.

On 7th of December, 2015, that's yesterday, the Special Tribunal's Registrar submitted to the Trial Chamber -- I clarify, where I said “that's yesterday,” it was filed on the 7th of December, the Trial Chamber received it on the 8th of December.

The Special Tribunal's Registrar submitted to the Trial Chamber a letter he received from [...] the minister of justice of the Lebanese Republic dated the 3rd of December, 2015. That is filing F2361.

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Attached to the minister of justice's letter was a letter from the public prosecutor at the Court of Cassation sent to the minister of justice of the Lebanese Republic on the 30th of November, 2015. The minister of justice in his letter to the Registrar was requesting an extension of one month “given that 14 days could be insufficient.”

[I]n the letter from the public prosecutor attached to the letter of the minister of justice to the Registrar, the public prosecutor advised that the request for assistance had been referred to the competent bodies and entities. The public prosecutor indicated that in the event that it proves difficult to secure what is required within the set time-frame, he will provide a response, in whole or in part, as soon as the information becomes available. Further, he - that is, the public prosecutor - stated that the time-period of 14 days may not suffice for the Government of the Lebanese Republic to furnish a considered response, and he requests an extension of the deadline “by one additional month.”

Given the complexity of the issues related to the request for assistance that counsel for Mr. Sabra submit are outstanding, the Trial Chamber extends the time for the Government of the Lebanese Republic to file submissions to Monday, the 11th of January, 2016, and for the Defence of Mr. Sabra to file any request to the submissions to Thursday, the 21st of January, 2016.

Secondly, the Registrar is directed to provide a copy of the order we have just delivered in Arabic to the Government of the Lebanese Republic this week.

Thirdly, the Trial Chamber notes that the Registrar's submission in filing F2361 has been filed confidentially without explanation. The annexes are the correspondence from [...] the Lebanese minister of justice of the 3rd of December and the letter to the minister of justice from the prosecutor-general dated the 30th of November. The Trial Chamber's decisions and orders in this matter are public.

Unless the Registrar provides a reason by 4.00 p.m. on Thursday, the 10th of December, [...] for it remaining confidential, filing F2361 will be reclassified as public. The annexes, of course, may be re-filed with appropriate redactions if the Registrar considers this necessary.

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