

**THE CONTEMPT JUDGE**

Case No.: STL-14-05/PT/CJ
Before: Judge Nicola Lettieri, Contempt Judge
Registrar: Mr Daryl Mundis, Registrar
Date: 17 October 2014
Original language: English
Classification: Public

IN THE CASE AGAINST

AL JADEED [CO.] S.A.L./ NEW T.V. S.A.L. (N.T.V.)
KARMA MOHAMED TAHSIN AL KHAYAT

AMENDED ORDER IN LIEU OF AN INDICTMENT

***Amicus Curiae* Prosecutor:**
Mr Kenneth Scott

**Counsel for *Al Jadeed* [CO.] S.A.L./
NEW T.V. S.A.L. (N.T.V.) and
Ms Karma Khayat:**
Mr Karim A.A. Khan
Mr Rodney Dixon
Ms Maya Habli
Ms Shyamala Alagendra



1. On 31 January 2014, pursuant to Rule 60 *bis* (F) (ii) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), Judge David Baragwanath, as Contempt Judge, issued the Order in Lieu of an Indictment operative in this case up until now.¹ The Order in Lieu of an Indictment charged a purported legal person, *New TV S.A.L. (AL JADEED TV)*, in addition to Ms Karma Khayat, with two counts of contempt and obstruction of justice.²

2. On 12 June 2014, the *Amicus Curiae* Prosecutor (“*Amicus*”) sought leave to amend the Order in Lieu of an Indictment with respect to the name of the corporate Accused.³ He specifically requested the following: (1) to amend the first paragraph of the Order in Lieu of an Indictment and the first paragraph under the heading “The Accused” to reflect what he asserted to be the corporate Accused’s correct name; to amend “[o]ther uses or references to ‘AL JADEED TV’ [. . .] to ‘AL JADEED’”; and to amend the caption of the case.⁴ The Defence did not oppose the Request and submitted that the requirements of Rule 71 (B), which provides for granting leave to amend an indictment, had been met.⁵

3. Taking into account the *Amicus*’ submissions and the supporting annexes, as well as the Defence response, I found, pursuant to Rule 71 (B), that there was *prima facie* evidence to support the proposed amendments and that the amendments would not result in improper prejudice to the Accused.⁶ I therefore granted the Request and ordered the *Amicus* to file an amended order in lieu of an indictment.⁷ Of course, pursuant to Rules 60 *bis* (F) (ii), (H) and 71 (B), it would ultimately be for me to issue any such amended order.

4. On 10 October 2014, the *Amicus* filed his proposed amended order in lieu of an indictment.⁸ In addition to the amendments that I approved, the *Amicus*, without any explanation, included other substantive changes. He altered, *inter alia*, Ms Khayat’s professional title and

¹ STL, *In the case against New TV S.A.L. and Khayat*, STL-14-05/I/CJ, F0001, Redacted Version of Decision in Proceedings for Contempt With Orders in Lieu of an Indictment, 31 January 2014.

² *Id.*

³ STL, *In the case against New TV S.A.L. and Khayat*, STL-14-05/PT/CJ, F0032, Request for Leave to Amend Order in Lieu of an Indictment with Annexes, 12 June 2014 (“Request”). All further references to filings and decisions refer to this case number unless otherwise stated.

⁴ *Id.* at paras 17-19.

⁵ F0046, Defence Response to Amicus Prosecutor’s Request for Leave to Amend Order in Lieu of an Indictment, 26 June 2014, para. 5.

⁶ F0061, Decision on *Amicus Curiae* Prosecutor’s Request for Leave to Amend Order in Lieu of an Indictment and Scheduling Order, 7 October 2014 (“Leave to Amend Decision”), para. 10.

⁷ *Id.* at pp. 5-6.

⁸ F0062, Proposed Amended Order in Lieu of an Indictment, 10 October 2014.

assertions with respect to the service of both the Registrar's Notice of Cease and Desist of 7 August 2012 and the Pre-Trial Judge's Order of 10 August 2012.⁹

5. As the *Amicus* is well aware, Rule 71 (B) empowers me to grant leave to amend the Order in Lieu of an Indictment only if, after also hearing from the Defence, I am satisfied that there is *prima facie* evidence to support a specific proposed amendment and the amendment would not result in improper prejudice to the Accused.¹⁰ Once I have granted such leave, the *Amicus* is charged with filing a proposed amended order in lieu of an indictment limited by my decision. Here, however, the *Amicus* has improperly submitted several amendments plainly outside the scope of my Leave to Amend Decision. If the *Amicus* seeks to further amend the Order in Lieu of an Indictment, he is free to present a new request.

6. Accordingly, consistent with my Leave to Amend Decision, I am issuing an amended order in lieu of an indictment which incorporates those amendments that I approved and rejects all other changes.¹¹

DISPOSITION

FOR THESE REASONS;

PURSUANT to Rules 60 *bis* and 71;

I

ISSUE an Amended Order in Lieu of an Indictment.

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

Dated 17 October 2014

Leidschendam, the Netherlands



Judge Nicola Lettieri
Contempt Judge



⁹ *Id.* at Annex A, pp. 1-2.

¹⁰ Rule 71 (B) STL RPE.

¹¹ With respect to the allegations pertaining to the presence of certain broadcasts on YouTube, I note that the Order in Lieu of an Indictment alleged that they remained accessible to the public “to this day”. I therefore adjust the language in the Order to “until at least 31 January 2014”, the date on which the Order in Lieu of an Indictment was issued.