

SPECIAL TRIBUNAL FOR LEBANON

المحكمة الخاصة بلبنان

TRIBUNAL SPÉCIAL POUR LE LIBAN

THE CONTEMPT JUDGE

Case No.: STL-14-06/PT/CJ
Before: Judge Nicola Lettieri, Contempt Judge
Registrar: Mr Daryl Mundis, Registrar
Date: 27 January 2015
Original language: English
Classification: Public

IN THE CASE AGAINST

AKHBAR BEIRUT S.A.L.
IBRAHIM MOHAMED ALI AL AMIN

SCHEDULING ORDER ON PRE-TRIAL PROCEEDINGS

Amicus Curiae Prosecutor:
Mr Kenneth Scott

Counsel for *Akhbar Beirut S.A.L.* and
Mr Ibrahim Mohamed Ali Al Amin:
Mr Antonios Abou Kasm



BACKGROUND

1. On 31 January 2014, in the “Decision in Proceedings for Contempt with Orders in Lieu of an Indictment” (“Order in Lieu of an Indictment”), Judge Baragwanath, in his role as Contempt Judge, charged Mr Ibrahim Mohamed Ali Al Amin and *Akhbar Beirut S.A.L.*, a corporation, with one count of contempt and obstruction of justice pursuant to Rule 60 *bis* (A) of the Tribunal’s Rules of Procedure and Evidence (“Rules”).¹ In the same decision, Judge Baragwanath recused himself as Contempt Judge with respect to this case.² I was subsequently designated as the Contempt Judge going forward.³
2. On 29 May 2014, I held an initial appearance.⁴ During that hearing, Mr Al Amin, who was representing both himself and *Akhbar Beirut S.A.L.*, voluntarily left the courtroom.⁵ I consequently entered pleas of not guilty for both Accused and ordered that counsel be assigned to them, while expressing the willingness to reconsider such assignment should the Accused decide to participate in the proceedings.⁶ On 30 June 2014, the Head of Defence Office assigned Mr Antonius Abou Kasm to represent the Accused.⁷
3. On 18 August 2014, the Defence challenged the Tribunal’s jurisdiction over both Accused.⁸
4. On 12 September 2014, I held a status conference to consider issues related to counsel’s representation of the Accused, the state of the pre-trial proceedings, including a proposed timeline submitted by the *Amicus Curiae* Prosecutor (“*Amicus*”),⁹ and any other relevant

¹ STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06/I/CJ, F0001, Redacted Version of Decision in Proceedings for Contempt with Orders in Lieu of an Indictment, 31 January 2014.

² *Id.* at p. 29, Disposition.

³ STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06/I/PRES, F0002, Order Designating Contempt Judge, 31 January 2014.

⁴ STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06, Transcript of 29 May 2014, 29 May 2014 (“Transcript of 29 May 2014”).

⁵ Transcript of 29 May 2014, p. 14.

⁶ Transcript of 29 May 2014, pp. 14-19; STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06/PT/CJ, F0018, Reasons for Decision on Assignment of Counsel, 5 June 2014, paras 19-28. All further references to filings and decisions relate to this case number unless otherwise stated.

⁷ F0028, Assignment of Counsel Pursuant to Rule 59 (F) of the Rules of Procedure and Evidence, 30 June 2014.

⁸ F0055, Preliminary Motion Presented by Counsel Assigned to Represent *Akhbar Beirut S.A.L.* and Mr Ibrahim Mohamed Ali Al Amin, 18 August 2014.

⁹ F0054, *Amicus Curiae* Proposed Timeline, 15 August 2014.

matters.¹⁰ At the conference, the *Amicus* indicated that he had completed his disclosure obligations pursuant to Rule 110 (A).¹¹ Shortly thereafter, the Defence submitted its proposed timeline for the pre-trial and trial phases.¹²

5. On 6 November 2014, I issued my “Decision on Motion Challenging Jurisdiction”.¹³ I held that while the Tribunal has jurisdiction over the alleged contempt in this case, such jurisdiction does not extend to legal persons.¹⁴ I thus ordered that the charges against *Akhbar Beirut S.A.L.* be dismissed.¹⁵ The *Amicus* appealed.¹⁶

6. On 23 January 2015, the Appeals Panel reversed my Jurisdiction Decision in part.¹⁷ The Appeals Panel concluded that the Tribunal indeed does have jurisdiction to try legal persons for contempt and consequently reinstated the Order in Lieu of an Indictment.¹⁸

DISCUSSION

I. Scheduling

7. In light of the Appeals Panel Jurisdiction Decision, I consider it appropriate to set the schedule for the remainder of the pre-trial phase. This order takes into account the Parties’ submissions on a time line in this case. I note that, pursuant to Rule 60 *bis* (H), the Rules apply *mutatis mutandis* in these proceedings. Due to the relatively limited nature of a contempt case, time periods here may often be shorter than those provided by the Rules.¹⁹

¹⁰ F0063, Scheduling Order for a Status Conference, 5 September 2014; STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06, Transcript of 12 September 2014, 12 September 2014 (“Transcript of 12 September 2014”).

¹¹ Transcript of 12 September 2014, p. 22.

¹² F0065, Proposed Schedule Submitted by Counsel Assigned to Represent *Akhbar Beirut S.A.L.* and Mr Ibrahim Mohamed Ali Al Amin, 15 September 2014.

¹³ F0069, Decision on Motion Challenging Jurisdiction, 6 November 2014 (“Jurisdiction Decision”).

¹⁴ *Id.* at para. 2.

¹⁵ *Id.* at p. 46, Disposition.

¹⁶ STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06/PT/AP/AR126.1, F0001, Interlocutory Appeal Against the Decision on Motion Challenging Jurisdiction, 13 November 2014.

¹⁷ STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, STL-14-06/PT/AP/AR126.1, F0004, Decision on Interlocutory Appeal Concerning Personal Jurisdiction in Contempt Proceedings, 23 January 2015 (“Appeals Panel Jurisdiction Decision”).

¹⁸ *Ibid.*

¹⁹ *Cf.* STL, *In the case against New TV S.A.L. and Khayat*, STL-14-05, Transcript of 13 May 2014 (T2), 13 May 2014, pp. 7-8.

A. Pre-Trial Briefs

8. Pursuant to Rule 91 (G) and (I), I am setting dates for the filing of the Parties' pre-trial briefs. Rule 91 (G) provides that the *Amicus* shall be ordered to file his pre-trial brief, as well as his lists of witnesses and exhibits, at least six weeks before the Pre-Trial Conference required by Rule 127. Rule 91 (I) states that the Defence shall be ordered to file its pre-trial brief not less than three weeks before the Pre-Trial Conference, to address factual and legal issues, including the general nature of the Accused's defence, matters under dispute in the *Amicus*'s pre-trial brief and why each of those matters is in dispute.

9. I am mindful that significant time has passed since the issuance of the Order in Lieu of an Indictment and the completion of Rule 110 (A) disclosure. This has given both Parties ample time to make the necessary preparations for this case. I therefore order the *Amicus* to file his pre-trial brief by 12 February 2015, and the Defence to file its pre-trial brief by 5 March 2015.

B. Disclosure of witness statements and filing of Rule 155 and 156 motions

10. I note that the *Amicus* has apparently already disclosed to the Defence the statement of an expert witness pursuant to Rule 161 (A).²⁰ Accordingly, pursuant to Rule 161 (B), the Defence filed notice that it does not accept the statement and expects to challenge this person's qualifications as an expert and, in part, the relevance of the report.²¹ If either Party intends to call additional expert witnesses, I order that their statements, pursuant to Rule 161 (A), as well as the statements presently covered by my "Decision on the *Amicus Curiae* Prosecutor's Application for Protective Measures and Non-Disclosure",²² be disclosed, subject to the Rules, in unredacted form by 27 February 2015, sufficiently in advance of trial to allow the Parties to prepare for trial. I remind the Parties, however, that all disclosure remains subject to my protective measures Order of 3 July 2014, which established basic confidentiality requirements for these proceedings.²³ Any notice in response to expert witness statements under Rule 161 (B) shall be filed by 17 March 2015.

²⁰ F0071, Notice Submitted by Assigned Counsel Pursuant to Rule 161 (B) of the Rules of Procedure and Evidence, Confidential, 26 November 2014, para. 1.

²¹ *Id.*

²² F0057, Decision on the *Amicus Curiae* Prosecutor's Application for Protective Measures and Non-Disclosure, 26 August 2014.

²³ F0030, Decision on the *Amicus Curiae* Prosecutor's Application for Protective Measures and Non-Disclosure, 3 July 2014.

11. Moreover, I order the *Amicus* to file any request for the admission of evidence pursuant to Rules 155 or 156 by 12 February 2015. The Defence has until 27 February 2015 to respond to such motions.

C. Pre-Trial Conference and start of trial

12. A Pre-Trial Conference and the subsequent date for the commencement of this contempt trial will be set in due course, after consultation with the Parties, bearing in mind that certain applicable time limits will be shortened.

II. Agreed facts

13. With respect to agreed facts, I encourage the Parties to meet to consider narrowing the issues in dispute and agree, to the extent possible, on the modes of presenting evidence, as well as any other practicalities.

DISPOSITION

FOR THESE REASONS;

PURSUANT to Articles 18 (2) and 21 (1) of the Tribunal's Statute and Rules 60 *bis* (H), 77 (E) and 89 (B) of the Rules,

I

ORDER the following:

- The *Amicus* shall file a pre-trial brief, as well as any motion for admission into evidence of Rule 155 or Rule 156 written statements, by 12 February 2015;
- Expert statements pursuant to Rule 161 (A), and any witness statements covered by my "Decision on the *Amicus Curiae* Prosecutor's Application for Protective Measures and Non-Disclosure" of 26 August 2014, must be disclosed to the other Party, subject to the Rules, in unredacted form no later than 27 February 2015;
- The Defence shall file any response to an *Amicus* motion for admission into evidence of Rule 155 or Rule 156 written statements by 27 February 2015;
- The Defence shall file a pre-trial brief by 5 March 2015;

- Any notice in response to expert witness statements under Rule 161 (B) shall be filed by 17 March 2015.

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

Dated 27 January 2015

Leidschendam, the Netherlands



Judge Nicola Lettieri
Contempt Judge

