



المحكمة الخاصة بلبنان
SPECIAL TRIBUNAL FOR LEBANON
TRIBUNAL SPÉCIAL POUR LE LIBAN

Contempt Case against Al Jadeed [CO.] S.A.L./ NEW T.V. S.A.L. (N.T.V.) and Ms Karma Mohamed Tahsin Al Khayat (Case STL-14-05)



On 31 January 2014, the initial Contempt Judge, Judge David Baragwanath, issued a Decision in Proceedings for Contempt with Orders *in lieu* of an Indictment in the Case against *Al Jadeed* [CO.] S.A.L./NEW T.V. S.A.L. (N.T.V.) and Ms Karma Mohamed Tahsin Al Khayat (STL-14-05), charging the Accused with two counts of contempt and obstruction of justice. [A redacted version of the decision and orders](#) became public on 24 April 2014.

The Accused

- Al Jadeed [CO.] S.A.L./NEW T.V. S.A.L. (N.T.V.) [hereafter “*Al Jadeed* S.A.L.”] is a Lebanese broadcast media outlet registered before the Beirut Commercial Court, Commercial Registry Section, on 13 December 1990.
- Ms Karma Mohamed Tahsin Al Khayat, born in 1983 in Saida, Lebanon, was, at the time relevant to the indictment, *Al Jadeed* S.A.L.’s Deputy Head of News and Political Programmes Manager and one of the company’s shareholders.



Photograph taken at the initial appearances hearing of Al Jadeed S.A.L. and Ms Khayat on 13 May 2014.

Alleged Criminal Acts

In his decision of 31 January 2014 the initial Contempt Judge, Judge David Baragwanath, found sufficient evidence that on 6, 7, 9, and 10 August 2012 *Al Jadeed* S.A.L. broadcast five reports in Arabic titled “The Witnesses of the International Tribunal”. In each episode journalists allegedly approached individuals claimed by *Al Jadeed* S.A.L. to be confidential witnesses in the *Ayyash et al.* case. The total number of these alleged confidential witnesses discussed in the reports was eleven. With respect to each alleged confidential witness, it is alleged that certain identifying information was provided. In addition, the broadcasts purported to reveal details on the type of information given to investigators of the Tribunal by the

alleged confidential witnesses. The broadcasts were allegedly subsequently transferred to *Al Jadeed* S.A.L.’s website, where they allegedly remained until at least 4 December 2012, and *Al Jadeed* S.A.L.’s YouTube channel. In a confidential order issued on 10 August 2012, the Pre-Trial Judge in the *Ayyash et al.* case specifically ordered “*Al-Jadeed* TV, its principals, employees, agents and affiliates immediately to remove any confidential information or material allegedly related to witnesses before the Tribunal, from their website and from any other resource accessible to the public”. This Order specifically refers to the material broadcast by *Al Jadeed* S.A.L.

Charges

Count 1 - Under Count 1, *Al Jadeed* S.A.L. and Ms Khayat are each charged pursuant to Rule 60bis (A) of the Tribunal’s Rules of Procedure and Evidence with knowingly and wilfully interfering with the administration of justice by broadcasting and/or publishing information on purported confidential witnesses in the *Ayyash et al.* case, thereby undermining public confidence in the Tribunal’s ability to protect the confidentiality of information about, or provided by, witnesses or potential witnesses.

Count 2 - Under Count 2, *Al Jadeed* S.A.L. and Ms Khayat are each charged pursuant to Rule 60bis (A) iii with knowingly and wilfully interfering with the administration of justice by failing to remove from *Al Jadeed* S.A.L.’s website and YouTube channel information on purported confidential witnesses in the *Ayyash et al.* case, thereby violating an order issued by the STL’s Pre-Trial Judge in the *Ayyash et al.* case on 10 August 2012.

Key Judicial Developments

29 April 2013 - The initial Contempt Judge, Judge David Baragwanath, issues a decision, initiating proceedings with respect to three incidents which could potentially constitute interference with the administration of justice through publication of alleged witness identities. One of those incidents relates to *Al Jadeed* S.A.L.’s broadcasts of August 2012.

2 July 2013 - Then STL Acting Registrar, Mr Daryl Mundis, appoints Mr Stéphane Bourgon to investigate the three events

that are the subject of allegations of contempt. Mr Bourgon submits periodic confidential reports to the Contempt Judge on the progress of investigations.

31 January 2014 - Judge Baragwanath issues a decision in proceedings for contempt with orders *in lieu* of an indictment in the case against *Al Jadeed* S.A.L. and Ms Khayat, charging them with two counts of contempt and obstruction of justice under Rule 60bis (A). In the same decision, Judge

This is not an official document. It is intended for public information only.

This document is also available on the STL website (www.stl-tsl.org) and on Scribd (www.scribd.com/stlebanon).

All judicial filings are available on the Tribunal’s website at the following address: www.stl-tsl.org/en/the-cases/filings-a-cases.

Before throwing away this document, give it to a friend who is interested in learning about the Tribunal.

Baragwanath recuses himself as the Contempt Judge. In a separate order on the same day, Judge Baragwanath designates Judge Nicola Lettieri as the new Contempt Judge from a pre-determined roster of all Judges of the Tribunal.

4 March 2014 - STL Registrar, Mr Daryl Mundis, appoints Mr Kenneth Scott as the new *Amicus Curiae* Prosecutor to deal with the contempt charges.

18 March 2014 - Judge Lettieri issues summons to appear, ordering *Al Jadeed S.A.L.* and Ms Khayat to appear before the STL.

24 April 2014 - A public redacted version of the decision in proceedings for contempt with orders *in lieu* of an indictment is issued.

9 May 2014 - Head of Defence Office, Mr Francois Roux, appoints Mr Karim Khan as lead counsel representing both the natural and legal persons in the Case STL-14-05.

13 May 2014 - The initial appearances of *Al Jadeed S.A.L.* and Ms Khayat take place before the Contempt Judge. Both the Accused enter pleas of not guilty.

24 July 2014 - Contempt Judge issues a decision, finding that the STL does not have jurisdiction to hear cases of contempt and obstruction of justice against legal persons (corporate entities). In the same decision, the Contempt Judge confirms that the Tribunal does have jurisdiction to hear cases of contempt and obstruction of justice against natural persons.

2 October 2014 - The Appeals Panel, composed of Judge Janet Nosworthy (presiding), Judge Walid Akoum and Judge Ivana Hrdličková, issues a decision, ruling by majority, with Judge Akoum dissenting, that the STL does have jurisdiction to hear cases of contempt and obstruction of justice against legal persons. The charges against *Al Jadeed S.A.L.* are reinstated.

17 October 2014 - Contempt Judge issues an amended order *in lieu* of an indictment.

3 November 2014 - Contempt Judge convenes a pre-trial conference in the Case STL-14-05.

18 December 2014 - Contempt Judge sets 16 April 2015 as the start date of trial in the case against *Al Jadeed S.A.L.* and Ms Khayat.

16 April 2015 - Trial in STL-14-05 opens before the Contempt Judge with opening statements by the *Amicus Curiae* and the Defence.

16-17 and 20-22 April 2015 - *Amicus Curiae* presents his case, calling eight *viva voce* witnesses, including one expert. A total of 181 *Amicus Curiae* exhibits are admitted into evidence.

12-14 May 2015 - The Defence present their case, calling 4 witnesses. A total of 136 Defence exhibits are admitted into evidence.

18 and 19 June 2015 - The parties present their closing arguments before Contempt Judge Lettieri.

18 September 2015 - Contempt Judge Lettieri issues his judgment, finding *Al Jadeed TV* and Ms Khayat not guilty with respect to the charges under count 1 of the order *in lieu* of indictment. The Judge finds Ms Khayat guilty and *Al Jadeed TV* not guilty with respect to the charges under count 2.

28 September 2015 - Contempt Judge sentences Ms Khayat to a fine of ten thousand (10,000) Euros in a public hearing. He issues the written reasons for the sentencing judgment on 6 October 2015.

20 October 2015 - *Amicus Curiae* files his appeal brief against Contempt Judge's 18 September 2015 judgment.

5 November 2015 - *Amicus Curiae* submits his appeal brief against Contempt Judge's sentencing judgment.

5 November 2015 - Defence for Ms Khayat files an appeal brief against Contempt Judge's 18 September 2015 judgment.

8 March 2016 - The Appeals Panel composed of Judge Ivana Hrdličková (presiding), Judge Janet Nosworthy and Judge Walid Akoum, issues its Judgment (with two Separate Opinions and one Partially Dissenting Opinion). The Panel reverses Ms Khayat's conviction under Count 2 and set aside the fine of ten thousand (10,000) Euros imposed on her by the Contempt Judge. The Appeals also affirmed Ms Al Khayat's acquittal under Count 1 and *Al Jadeed S.A.L.*'s acquittal under both counts.

Glossary

Contempt of court is defined in Rule 60bis of the Tribunal's Rules of Procedure and Evidence as knowing and willful interference with the Tribunal's administration of justice. All international criminal courts and tribunals have, in their rules of procedure and evidence, articulated the judges' power to impose criminal penalties for conduct that interferes with the administration of justice or threatens the integrity of the judicial proceedings.

Contempt can take a number of forms. Under Rule 60bis, it may include:

- knowingly giving false evidence before the court;
- disclosing certain information in knowing violation of a court order;

- failing to comply with court orders; or
- threatening, intimidating or offering to bribe witnesses or other individuals, such as the judges of the Tribunal.

The purpose of contempt proceedings is to protect the proper functioning of the Tribunal and the administration of justice.

Amicus curiae (a Latin term, which means "friend of the court") is a third party that is not party to the main case, but which is assigned to assist a court on a specific issue. An *Amicus Curiae* Prosecutor was appointed to investigate and prosecute the contempt cases before the STL. However he is independent from the Office of the Prosecutor at the STL.

Judges in the Case STL-14-05

Judge Ivana Hrdličková, *Presiding Judge of the Appeals Panel*
 Judge Janet Nosworthy, *Appeals Panel Judge*
 Judge Walid Akoum, *Appeals Panel Judge*
 Judge Nicola Lettieri, *Contempt Judge*

Parties in the Case STL-14-05

Mr Kenneth Scott, *Amicus Curiae Prosecutor*
 Mr Karim Khan, *Lead Counsel for Al Jadeed S.A.L. and Ms Karma Khayat*

The biographies of STL senior officers are available on the Tribunal's website: www.stl-tsl.org/en/about-the-stl/biographies

Last updated 14 March 2016