

**Neutral Citation Number: [2022] EWHC 285 (TCC)**

Case No: HT-2021-000495

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**COMMERCIAL COURT**

Royal Courts of Justice, Rolls Building  
Fetter Lane, London, EC4A 1NL

**Date: 20 January 2022**

**Before :**

**Mr Justice Waksman**

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**Between :**

**Qatar Airways Group QCSC**  
**- and -**  
**Airbus**

**Claimant**

**Defendant**

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**Rosalind Phelps QC and Rupert Allen (instructed by Clifford Chance LLP) for the**  
**Defendant**

**Akhil Shah QC (instructed by Unknown) for the Claimant**

Hearing dates: **20<sup>th</sup> January 2022**  
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**APPROVED JUDGMENT**

**MR JUSTICE WAKSMAN**

1. My task today is simply to deal with the questions, first of an extension of time for the defence, the claim having been served on 10 December and second, the timing of an application for a preliminary issue and( if still maintained), an application for an injunction to restrain delivery of the type of aircraft in question.
2. It is not for me to debate the merits of the proposal for a preliminary issue; all I would say is this: I am satisfied that a degree of expedition is called for, notwithstanding the fact that the parties have been debating the issue of the root cause analysis since the defendant's purported root cause analyses were produced in, I think, June or July of last year.
3. It is correct that the intended preliminary issue is hardly going to dispose of the action because there are very substantial claims for compensation made by the claimant, Qatar Airways. On the other hand, under the letter agreement and supplementary commitment letter, it is obviously correct that the full root cause analysis, which Airbus, agreed to provide, was to assist in the process of (a) what repair solution to the paintwork issue Airbus were prepared to offer and (b) whether that would be then to the reasonable satisfaction of Qatar Airways as the buyer.
4. That would at least move along the solution to the aircraft that are presently grounded and would obviously have an impact on any corrective work which would be required for the remaining aircraft to be delivered. In that sense, the sooner that that matter can be resolved, at least in my view today, the better, because it has at least got a real potential to start having the aircraft that are presently grounded flying again and potentially to unlock the delivery of further aircraft. So, I am proceeding on that basis.
5. So far as the extension of time for the defence is concerned, they have had quite a lengthy time. It is true that this is a substantial matter. On the other hand, because of these applications the issues have actually been ventilated to a considerable extent and in fact the defendants have had, for

some time, the benefit of an expert report from the claimants on the paint condition. In my judgment, the correct date is 25 February and so I do not think they need anything longer than that and then we will make the following directions from that.

6. I am not going to hold up the production of evidence from the defendant to await the service of the reply. Again, I think that the issues will have been perfectly well ventilated after the service of the defence in terms of what the issues are. But in any event, as will become clear, there is a way for anything arising out of the reply to be accommodated.
7. So, the defence is on 25 February. The reply, with the usual 21 days, will be 18 March. However, the evidence from the defendant will be served on 11 March, that is two weeks from the service of the defence and the evidence in any event, I suspect, to a large extent, can be prepared before then, but that gives a little breathing space after the service of the defence. So 11 March for the evidence. 18 March for the reply. 1 April for evidence, any reply evidence, from the claimant, but I will include in that allowing for any supplemental evidence from the defendant, limited solely to anything that arises out of the reply.
8. That then will have completed the procedural stages, but it is not going to be sensible to have any hearing immediately after the reply evidence. There has to be a breathing space and therefore I would not order it in before the Easter vacation which in any event is only 10~days afterwards. However, the new term starts on 26~April and there seems to me to be no reason at all why the hearing cannot take place right at the beginning of that term. That seems to me to strike the just balance between expediting this to the extent possible while allowing for a fair time for the preparation of the evidence.
9. That will be my judgment so far as all of the time periods are concerned.