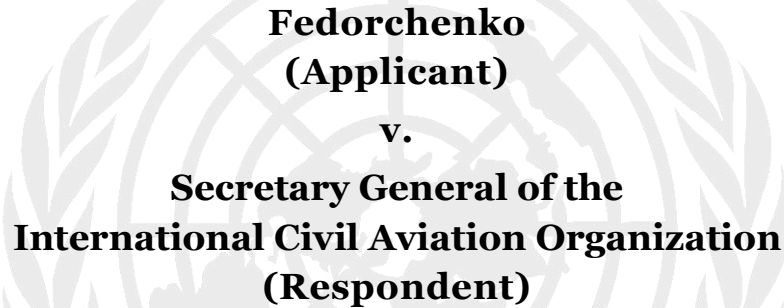




UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2014-568



**Fedorchenko
(Applicant)**
v.
**Secretary General of the
International Civil Aviation Organization
(Respondent)**

ORDER NO. 190

1. On 22 January 2014, Mr. Alexander Fedorchenko filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) challenging a decision taken by the Secretary General of the International Civil Aviation Organization (ICAO) dated 3 December 2013.
2. On 24 April 2014, Mr. Fedorchenko filed a motion requesting that the Appeals Tribunal issue an order “not to notify the other party of the filing of [his] medical records and not to disclose the whole of [his] medical records to ICAO...”. In support of his Motion, Mr. Fedorchenko emphasizes the “strictly personal, confidential and sensitive nature of medical records” and contends that he fears that ICAO will misuse his medical records to “further undermine [his] wellbeing, [his] professional reputation and life prospects”.
3. On 5 May 2014, the Secretary General of ICAO submitted his observations on the Motion. He objects to Mr. Fedorchenko’s Motion on the ground that the evidence supporting Mr. Fedorchenko’s claim for compensation for mental and physical harm is presumably contained in his medical records. He submits that Mr. Fedorchenko’s request is inconsistent with the principles of transparency and accountability and recalls the Appeals Tribunal’s finding in *Bertucci* that a document may not be used against a party unless the said party has first had an opportunity to examine it.
4. Having carefully considered the parties’ submissions, and in an endeavour to protect Mr. Fedorchenko’s privacy concerns on the one hand and promoting transparency and

THE UNITED NATIONS APPEALS TRIBUNAL

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safeguarding the Secretary General's due process rights on the other hand, I am satisfied that in the circumstances of this case, justice is done to the parties by granting Mr. Fedorchenko's request in part.

5. IT IS HEREBY ORDERED THAT Mr. Fedorchenko shall be allowed to file his medical record under seal; and that a designated representative of the Secretary General shall have the right to review the medical record on the premises of the Appeals Tribunal in the presence of a staff member of the Registry of the Appeals Tribunal.

Original and Authoritative Version: English

Dated this 24th day of June 2014 in Vienna, Austria.

(Signed)

Judge Mary Faherty,
President

Entered in the Register on this 24th day of June 2014 in Vienna, Austria.

(Signed)

Weicheng Lin, Registrar