



**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Jeffrey C. Dahl

**Counsel for Respondent:**

Nicola Caon, DAS/ALD/OHR, UN Secretariat

Albert Angeles, DAS/ALD/OHR, UN Secretariat

## **Introduction**

1. By Judgment *Applicant* UNDT/2022/071, this Tribunal adjudicated Case No. UNDT/GVA/2020/036 (Applicant). The Applicant appealed the Judgment before the United Nations Appeals Tribunal (“UNAT” or the “Appeals Tribunal”).
2. By Judgment *AAO* 2023-UNAT-1361, the Appeals Tribunal reversed the above UNDT Judgment and remanded the case for determination by a different Judge.
3. On 31 July 2023, the remanded case, registered under Case No. UNDT/GVA/2020/036/R1, was assigned to the undersigned Judge.
4. By Order No. 113 (GVA/2023) of 30 August 2023, the Tribunal invited the parties to attend a Case Management Discussion (“CMD”), held virtually via Microsoft Teams on 11 September 2023.
5. By Order No. 119 (GVA/2023) of 12 September 2023, the Tribunal instructed:
  - a. The Respondent to confirm the availability of witnesses to attend a hearing on the merits; and
  - b. The parties to inform the Tribunal the result of their informal discussion, and whether they were amenable to engage in mediation.
6. On 29 September 2023, the parties filed a joint motion informing the Tribunal that they are engaged in informal discussions but requesting that the proceedings not be postponed in the meantime.
7. In addition, the Respondent responded to Order No. 119 (GVA/2023) informing *inter alia*, that V01 is willing to testify under the following three conditions: (i) the hearing shall be held in camera; (ii) her name shall not be mentioned in the Judgment; and (iii) to preserve her mental health and not cause further emotional distress, the Applicant shall not be present during her testimony.

8. By Order No. 130 (GVA/2023) of 2 October 2023, the Tribunal instructed the Applicant to comment on V01's conditions to testify.

9. On 5 October 2023, the Applicant responded to Order No. 130 (GVA/2023) and agreed with V01's conditions.

### **Consideration**

10. Since the Applicant agreed with the aforementioned conditions, the Tribunal sees no detriment to the proceedings in granting V01's requests. Consequently, the Tribunal decides that:

- a. V01's testimony will be held in camera;
- b. V01 will not be named during the proceedings and Judgment; and
- c. The Applicant will not be virtually present during V01's testimony.

### *The hearing*

11. Having reviewed the case record to date and bearing in mind the findings of the Appeals Tribunal in *AAO* 2023-UNAT-1361, this Tribunal will hold a hearing on the merits as determined in its Order No. 119 (GVA/2023).

12. During the CMD, both parties agreed that the Tribunal will not revisit the issues heard in the first hearing on the merits. This includes the Applicant's testimony, who already gave evidence on 13 June 2022 and shall not be called again.

13. Accordingly, the following witnesses will appear at the hearing on the merits for the determination of the facts under dispute:

- i. V01;
- ii. Ms. M.T.;
- iii. Ms. A.S.;
- iv. Mr. E.B.;

- v. Ms. S.K.;
- vi. Mr. U.K.; and
- vii. Mr. A.K.

Tentative schedule

14. At the CMD, both parties confirmed their availability to attend a hearing on the merits between 23 and 31 October 2023. Subsequently, the Respondent informed the respective availability of each of the witnesses listed in para. 12.

15. All but one witness is available during the proposed period as the Respondent informed the Tribunal that Mr. E.B. will be in a remote vacation between 15 October and 17 November 2023.

16. In the interest of justice and of a thorough examination of the evidence, the Tribunal will hear Mr. E.B.'s testimony in a session that will be held as per the tentative schedule below.

17. In view of the above, the tentative schedule of the hearing, which may be subject to change, is as follows:

**Friday, 13 October 2023 (all times are Geneva time)**

3 p.m.	Mr. E.B. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.
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**Monday, 23 October 2023**

3 p.m.	Parties' opening statements
4 p.m.	V01. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.
5 p.m.	Ms. M.T. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.

**Wednesday, 25 October 2023**

1 p.m.	Ms. A.S. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.
1.30 p.m.	Ms. S.K. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.

2 p.m.	Mr. A.K. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.
2.30 p.m.	Mr. U.R. Examination-in-Chief by Counsel for the Respondent, and cross-examination by the Applicant's Counsel.
3 p.m.	Oral closing statements

### Conclusion

18. In view of the foregoing, it is ORDERED THAT:

- a. An oral hearing will be held on **13, 23, and 25 October 2023**, virtually via Microsoft Teams;
- b. V01's testimony will be held in camera and without the Applicant's virtual presence;
- c. The parties are notified of the tentative schedule of appearances at the hearing as per para. 17 above; and
- d. The parties are instructed to provide their contact details, including the witnesses' (email and phone number), no later than **Wednesday, 11 October 2023**.

*(Signed)*

Judge Sun Xiangzhuang

Dated this 9<sup>th</sup> day of October 2023

Entered in the Register on this 9<sup>th</sup> day of October 2023

*(Signed)*

René M. Vargas M., Registrar, Geneva