



Before: Judge Margaret Tibulya.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

STEFAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
SUBMISSION ON WITNESSES AND
MOTION TO ADMIT EVIDENCE**

Counsel for the Applicant:

George G. Irving

Counsel for the Respondent:

Jacob van de Velden, AAS/ALD/OHR, UN Secretariat

Andrea Ernst, AAS/ALD/OHR, UN Secretariat

Introduction

1. On 18 July 2022, the Applicant filed written statements of Mr. Jeton Krasniqi and Ms. Alexandra Ciora. He also requested that the Complainant (anonymized for confidentiality purposes) be produced for examination. The Applicant also requests the Tribunal to hear his own testimony.

2. The Respondent opposed the calling of the Complainant for examination on the ground that she is vulnerable and should not be subjected to the emotional distress of a hearing. Counsel submits the Complainant's appearance is not necessary since the disciplinary measure was based on the Applicant's own statements and admissions. The Respondent seeks to rely on *Fararjeh*,¹ in which the Appeals Tribunal held that it may be inadvisable to require that a vulnerable person physically testifies before the Tribunal.

Deliberations

3. The Tribunal notes that the Respondent does not oppose admission of Mr. Krasniqi and Ms. Ciora's witness statements and the hearing of the Applicant's testimony. The Respondent, however, opposes calling the Complainant as a witness on the ground that she is vulnerable. There is however, no psychiatric or other medical evidence to support that assertion.

4. Based on this fact and considering the nature of the issues presented by the application, the Tribunal determines that in order to avail the Applicant a meaningful opportunity to mount a defense, the Complainant should be called to testify.

5. The Tribunal decides that;

- a. The Complainant and the Applicant will give oral testimony;

¹ *Fararjeh* 2021-UNAT-1136, para. 43.

- b. the statements of Mr. Krasniqi and Ms. Ciora be admitted into evidence; and
- c. Directs the Respondent to produce the Complainant for examination.

(Signed)

Judge Margaret Tibulya

Dated this 22nd day of July 2022

Entered in the Register on this 22nd day of July 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi