



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/047
Order No.: 179 (NY/2020)
Date: 9 November 2020
Original: English

Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CONTEMPT OF COURT

Counsel for Applicant:
Omar Yousef Shehabi, OSLA

Counsel for Respondent:
Lucienne Pierre, ALD/OHR, UN Secretariat
Isavella Maria Vasilogeorgi, ALD/OHR, UN Secretariat

Introduction

1. The Tribunal held a virtual hearing on Tuesday, 3 November 2020 from 1:00 p.m. to 4:00 p.m. At the beginning of the hearing, according to standard practice, the Tribunal explicitly prohibited anyone present at the hearing to make any recordings of the hearing, and this instruction was reiterated to a witness when this person took the witness stand.

2. Following the hearing, Mr. Matthew Russell Lee produced a report regarding the hearing on the website of “Inner City Press”, in which he added links to the Tweeter account of “Inner City Press”, showing four photos from the hearing, which displayed confidential and/or private materials presented to a witness in direct violation of the Tribunal’s prohibition against recordings.

Consideration

3. The Tribunal is extremely concerned that recordings in the form of photos from the hearing have been made and published on the Tweeter account of “Inner City Press”. This is a direct violation of the Tribunal’s explicit orders at the hearing and entirely unacceptable.

4. The Appeals Tribunal has held the Dispute Tribunal has the inherent right to hold a party in contempt of court if s/he refuses to execute its orders (see, for instance, *Igunda* 2012-UNAT-255, para. 32; *Igbinedion* 2014-UNAT-410, paras. 29-34; and *Nartey* 2015-UNAT-544, para. 62). A similar right would exist if an attendee in the public gallery of a hearing deliberately and directly refuses to follow the Dispute Tribunal’s order not to make any recordings and these recordings are subsequently published.

5. According to Mr. Lee's own account, he was denied access to the hearing, so it is unclear to the Tribunal how he came in possession of the relevant photos. While Mr. Lee might not have taken the photos himself, it should, however, be clear to him, and whoever the photographer might be, that any illegal recordings from the hearing cannot be reproduced on a publicly accessible social media platform such as Tweeter. Accordingly, until Mr. Lee has demonstrated to the Tribunal that all illegal recordings have been removed from the public domain and destroyed, it will hold Mr. Lee in contempt of court and prohibit him from attending any of its future public hearings.

6. In Mr. Lee's report, he further takes issue with him being denied access from the virtual hearing, apparently accusing certain named persons for involvement therein.

7. The Tribunal notes that prior to this hearing, an online link for the public's access was posted on the hearing calendar on the Dispute Tribunal's website. Above this link, a disclaimer stated that "[a]ny person wishing to attend the public hearing is advised to join the virtual public gallery in a Teams meeting via the link provided herewith before the start time of the hearing" and that "[p]lease be advised that no public will be allowed into the virtual public gallery after the hearing has started".

8. This is standard practice, because important instructions from the Tribunal regarding a hearing, such as the prohibition against making recordings, are normally issued at the beginning of the hearing, and latecomers further disturb the ongoing proceedings.

9. Mr. Lee, however, only intended to enter the virtual hearing long after it had already begun and was therefore denied access due to his lateness. Moreover, none of the persons named in the published report were involved in the denial of Mr. Lee's to

access the ongoing proceedings. Mr. Lee's observations why he was denied access are therefore entirely incorrect.

IT IS ORDERED THAT:

10. Mr. Lee is held in contempt of court and prohibited from attending any future public hearings of the undersigned Judge until he has demonstrated to the Tribunal that all illegal recordings from the hearing on 4 November 2020 have been removed from the public domain and destroyed. This confirmation should be forwarded by email to the Tribunal's Registry at undt-newyork@un.org.

(Signed)

Judge Joelle Adda

Dated this 9th day of November 2020