



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/101

Order No.: 54 (NY/2021)

Date: 27 May 2021

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. By Order No. 45 (NY/2021) of 5 May 2021, the Tribunal instructed the parties, among other orders, as follows (emphasis in original):

13. By **4:00 p.m. on Wednesday, 12 May 2021**, the Respondent is to file his observations to the Applicant's 26 April 2021 filings not exceeding three pages, using the font Times New Roman, 12 pt. and 1.5 line spacing;

14. By **4:00 p.m. on Wednesday, 26 May 2021**, the Applicant is to file his closing statement, which is to be six pages maximum, using Times New Roman, font 12 and 1.5 line spacing. Aside from the Applicant's submissions pertaining to the Respondent's 11 May 2021 observations, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage. The Applicant is to present her final submissions under the headings of the issues set out in Order No. 25 (NY/2021), para. 5;

15. By **4:00 p.m. on Wednesday, 9 June 2021**, the Respondent is to file his closing statement responding to the Applicant's closing statement at a maximum length of six pages, using Times New Roman, font 12 and 1.5 line spacing. Aside from the response to the Applicant's submissions pertaining to the Respondent's 11 May 2021 observations, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage. The Respondent is to present his final submissions under the headings of the issues set out in Order No. 25 (NY/2021), para. 5;

16. By **4:00 p.m. on Friday, 11 June 2021**, the Applicant may file a statement of any final observations responding to the Respondent's closing statement. This statement of final observations by the Applicant must be a maximum of two pages, using Times New Roman, font 12 and 1.5 line spacing. It must be solely based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage;

2. Upon the request of the Respondent, communicated via email of 6 May 2021 of the Registry, the Tribunal extended the deadlines in Order No. 45 (NY/2021) as

follows: 19 May 2021 (para. 13); 2 June 2021 (para. 14); 16 June 2021 (para. 15); 18 June 2021 (para, 16).

3. On 19 May 2021, the Respondent timely filed his submission as per para. 13 of Order No. 45 (NY/2021).

4. On 26 May 2021, the Applicant filed a motion to strike evidence and argument of the Respondent relating to a witness statement appended to the Respondent's 19 May 2021 submission.

5. On the same date (26 May 2021), the Respondent filed an objection to the Applicant's motion.

Consideration

6. In the Applicant's 26 May 2021 motion, he requests that the witness statement and "any argument based upon his 'evidence' be struck from the record", arguing, in essence, that,

... that the Respondent is plying a new argument not raised previously in litigation, that new disputed facts not raised in the joint submission are presented, that this evidence has been disclosed over a year after it was secured, that the filing does not conform to the Order requesting it, that no leave has been sought to introduce new argument and evidence, that the evidence misrepresents facts and law, that it exceeds the parameters of an "expert witness" statement, that it is far from the "best evidence" the Respondent could seek from [office and title redacted] who had conduct of the Applicant's case.

7. In the Respondent's 26 May 2021 objection, he, *inter alia*, submits that "the Applicant's disagreement with Respondent's observations is not grounds for a motion to strike", that "[t]he Applicant may submit her views with respect to the Respondent's observations in her closing submissions", and that "[t]he Respondent's submissions were submitted in accordance to Order Nos. 45 (NY/2021) and 25 (NY/2021)".

8. The Tribunal fully agrees with the submissions of the Respondent as quoted and rejects the Applicant's motion.

9. In light of the above,

IT IS ORDERED THAT:

10. The Applicant's motion dated 26 May 2021 is rejected.

A handwritten signature in black ink, appearing to read 'Joelle Adda', is written above a horizontal line.

Judge Joelle Adda

Dated this 27th day of May 2021