



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

AGUILAR VALLE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Isavella Maria Vasilogeorgi, DAS/ALD/OHR, UN Secretariat
Miryoung An, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 078 (NY/2023) dated 6 September 2023, the Tribunal ordered the parties as follows (emphasis in original):

... Upon the request of the Applicant, a hearing will be held at which those witnesses proposed by the parties, who are permitted by the Tribunal, will provide testimony during **the week of 6 – 10 November 2023**.

... By **4:00 p.m. on Tuesday, 12 September 2023**, the Respondent is to state what disputed fact(s) each of his proposed witnesses is to give testimony about for the Tribunal to decide on its relevancy. Alternatively, the Respondent may file signed written statements that the Tribunal may allow to replace the examination-in-chief at the hearing if the Respondent should wish to do so. The Tribunal will thereafter assess the relevancy of each of the witnesses proposed by the parties, decide on whether their testimonies will be allowed, and then provide further instructions regarding the hearing.

2. On 12 September 2023, the Respondent filed his submission as per Order No. 078 (NY/2023).

Consideration

Location of hearing

3. The hearing will take place in the courtroom of the Dispute Tribunal in New York.

Witnesses

4. With reference to the Appeals Tribunal's extensive jurisprudence on hearing witnesses in disciplinary cases (see, for instance, AAC 2023-UNAT-1370) and the particular circumstances of the present case, the Tribunal will allow all witnesses proposed by the parties to present their testimonies before the Tribunal.

5. The witness testimonies should be strictly limited to the topics indicated by the parties in their previous submissions, and the time allotted to hearing each witness is restricted accordingly as per the schedule set out below. The party who

has called a witness (as indicated in parenthesis below) will undertake the examination-in-chief, whereas the other party will cross-examine the relevant witness. As appropriate, the parties will be allowed approximately the same amount of time for the questioning of each witness. Thereafter, depending on time, each party will be allowed the option of one brief set of follow-up questions.

6. The party who has called a witness is to ensure the witness's participation in the hearing at the given timeslot. For MU, the Applicant is to confirm the attendance as soon as possible to enable the Registry to organize Spanish-English interpretation of his testimony.

7. The Registry will, in due course, apprise the parties regarding (a) the technical arrangements for how witnesses who will not be able to be physically present in the courtroom can provide their testimonies remotely and (b) the special arrangements for the Spanish-English interpretation of MU's testimony.

Public hearing

8. Under art. 16.6 of the Tribunal's Rules of Procedure, "oral proceedings shall be held in public unless the judge hearing the case decides, at [her] own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed".

9. The Tribunal notes that neither party has requested that public access to the hearing be limited or entirely closed. Considering the sensitive nature of the present case, the Tribunal will allow the parties to make submissions thereon. Should a party wish the hearing to be fully or partly closed, he is to make a reasoned requested therefor.

Opening and closing statements

10. According to the Appeals Tribunal in AAC, para. 44, at the hearing, the parties "should [ordinarily] commence with an opening address" to the Dispute Tribunal. The parties will therefore be allowed to do so in writing before the hearing following the direction provided in AAC. In addition, at the opening of the hearing, the parties will be allowed five minutes each to present their case.

11. Concerning closing statements and the Appeals Tribunal’s holdings in para. 44 of AAC, the parties will be allowed five minutes at the end to sum up their conclusions after hearing all witnesses. Subsequently, the parties will additionally be directed to file comprehensive written closing statements, summarizing all their respective contentions.

12. In light of the above,

IT IS ORDERED THAT:

13. The tentative agenda of the hearing is as follows:

a. **Monday, 6 November 2023,**

- i. From 9:30 a.m to 10:00 a.m.—introduction by the Tribunal and opening statements by the parties
- ii. From 10:00 a.m. to 12:00 p.m.—the Applicant
- iii. From 1:00 p.m. to 3:00 p.m.—AM (the Respondent)

b. **Tuesday, 7 November 2023,**

- i. From 9:30 a.m to 9:45 a.m.—introduction by the Tribunal
- ii. From 9:45 a.m. to 11:15 a.m.—VM (the Respondent)
- iii. From 11:30 a.m. to 1:00 p.m.—BP (the Respondent)
- iv. From 2:00 p.m. to 3:30 p.m.—AJ (the Respondent)

c. **Wednesday, 8 November 2023,**

- i. From 9:30 a.m to 9:45 a.m.—introduction by the Tribunal
- ii. From 9:45 a.m. to 10:45 a.m.—VF (the Respondent)
- iii. From 11:00 a.m. to 12:00 p.m.—HA (the Respondent)
- iv. From 1:00 p.m. to 2:00 p.m.—AR (the Respondent)

d. **Thursday, 9 November 2023,**

- i. From 9:30 a.m to 9:45 a.m.—introduction by the Tribunal
- ii. From 9:45 a.m. to 10:45 a.m.—RV (the Respondent)
- iii. From 11:00 a.m. to 12:00 p.m.—FD (the Respondent)
- iv. From 1:00 p.m. to 2:00 p.m.—MU (the Applicant)

e. **Friday, 10 November 2023,**

- i. From 9:30 a.m to 9:45 a.m.—introduction by the Tribunal
- ii. From 9:45 a.m. to 10:45 a.m.—PA (the Applicant)
- iii. From 11:00 a.m. to 12:00 p.m.—LC (the Applicant)
- iv. From 1:00 p.m. to 2:00 p.m.—AB (the Applicant)
- v. From 2:00 p.m to 2:30 p.m.—oral closing statements and closure of the hearing by the Tribunal

14. By **4:00 p.m. on Wednesday, 27 September 2023**, the Applicant is to confirm the participation of MU.

15. By **4:00 p.m. on Friday, 6 October 2023**, the parties are to confirm the participation of all other witnesses.

16. By **10:00 a.m. on Monday, 23 October 2023**, the parties are to file any request for limiting public access to the hearing.

17. By **10:00 a.m. on Friday, 27 October 2023**, if a party wishes to object to the other party's request for limiting access to the public, the relevant party is to file his submissions thereon.

18. By **10:00 a.m. on Wednesday, 1 November 2023**, each party is to file a paginated bundle of the documents to which they seek to refer during the questioning of the witnesses.

19. By **10:00 a.m. on Friday, 3 November 2023**, the parties are to file their opening addresses, if any, following the Appeals Tribunal's guidance in para. 44 of AAC 2023-UNAT-1370;

20. Other practicalities regarding the hearing, as directed by the Tribunal, will, in due course, be handled by the Registry in communication with the parties.

(Signed)

Judge Joelle Adda

Dated this 22nd day of September 2023

Entered in the Register on this 22nd day of September 2023

(Signed)

Isaac Endeley, Registrar, New York