



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/024
Order No.: 063 (NY/2024)
Date: 4 June 2024
Original: English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

HUNT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Steven Dietrich, DAS/ALD/OHR UN Secretariat
Miryoung An, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 056 (NY/2024) dated 22 May 2024, the Tribunal ordered a hearing to be held from 24 to 26 June 2024 and set out its schedule. By 29 May 2024, it further, *inter alia*, ordered:

a. The Respondent to file a submission in which he specifically identifies the disputed facts concerning which each of his witnesses, namely the Complainant, NH, HB, and RWL, are to testify with reference to the parties' consolidated list of agreed and disputed facts dated 14 December 2023.

b. Each of the parties to confirm in a submission to the Tribunal his acceptance of the hearing schedule and the participation of each of his witnesses, including whether they are to participate in person or remotely via MS Teams. If either of the parties wished to amend the schedule, this was to be indicated in the submission.

2. On 29 May 2024, the parties duly filed their submissions in response to Order No. 056 (NY/2024).

3. On 31 May 2024, the Respondent filed a supplement submission on the availability of his witnesses.

Consideration

Applicant's request for additional documentation

4. In the Applicant's 29 May 2024 submission, he stresses "the importance of having disclosure of the additional documentation he has requested in preparation for the hearings" and requests that a deadline "be established of 3 June 2024 for the Respondent to produce the documentation".

5. The Tribunal takes note of the Applicant's request, but observes that the Respondent may need additional time to identify and produce all the relevant documentation and therefore sets the deadline on 7 June 2024.

Applicant's witnesses

6. In the Applicant's 29 May 2024 submission, he confirms the availability of AR, MS and MR as witnesses, noting that,

a. As MS is presently in Japan, he requested to hear her testimony at 9:00 a.m. on 25 June 2024, preceding AR's testimony.

b. PG, the current Representative of the Secretary-General ("RSG"), is/will be available on 26 June 2024 but not on 24 June 2024.

7. The Tribunal sees no issue in the Applicant's requests and will amend the hearing schedule accordingly.

8. The Applicant further submits that "Witness RSG has been contacted but has not yet responded". He therefore requests the assistance of the Respondent "in securing his participation" on 24 June 2024.

9. The Tribunal notes that it is not clear who the Applicant refers to as "Witness RSG", but it is assumed that it is the former RSG, SR (name redacted for privacy reasons). The Applicant, however, has not requested SR to appear as a witness in any of his previous submissions to the Tribunal.

10. The Tribunal will therefore need the Applicant to clarify this, and if in the affirmative, also specify concerning which disputed facts SR is proposed to testify with specific reference to the relevant paragraph number(s) in the parties' joint submission of agreed and disputed facts dated 14 December 2023. If the Tribunal's understanding is correct, the Respondent will subsequently be instructed to (a) comment thereon and (b) ensure SR's availability at the hearing in accordance with the amended hearing schedule set out below.

11. As relevant, the Tribunal will make its decision regarding the admissibility of SR's possible testimony at a later date.

Respondent's witnesses

12. In the Respondent's 29 May 2024 submission, he states that "he did not request the Tribunal to call [the Complainant, NH, HB and RWL] as witnesses but provided their names as those who have provided relevant information to the Applicant's conduct at issue". He further explains that "the four witnesses' statements that are relied upon by the Respondent are before the Tribunal as part of the record assembled by the Respondent, and that the statements, together with other evidence on the record, are sufficient to establish the stated facts in those paragraphs" in accordance with art. 9.4 of the Dispute Tribunal's Statute.

13. The Tribunal notes that it indeed understood the Respondent's 14 December 2023 submission to mean that he was proposing to hear the Complainant, NH, HB and RWL as witnesses if a hearing was to be held. The Respondent has, however, now explicitly clarified that he does not want to call any witnesses. On the other hand, in the Applicant's 11 April 2024 submission, he requested to cross-examine the Complainant, but not NH, HB, and RWL.

14. Accordingly, since the Tribunal sees no reason to call NH, HB or RWL as witnesses, none of them are to be heard at the hearing and Order No. 056 (NY/2024) is to be amended in line herewith.

15. In the Respondent's 31 May 2024 supplement submission, he requests that the Complainant's testimony be rescheduled to 5 July 2024 or after, but does not give an explicit reason for the requested postponement or state that she is unavailable on 24 June 2024. As the witnesses should be heard consecutively, and it would be important to hear the Complainant immediately after the Applicant, the Tribunal rejects the Respondent's request.

16. In light of the above,

IT IS ORDERED THAT:

17. By **4:00 p.m. on Wednesday, 5 June 2024**, the Applicant is to clarify whether he wishes to call SR as a witness, and if so, specify the disputed facts concerning which SR is proposed to testify with specific reference to the relevant

paragraph number(s) in the parties' joint submission of agreed and disputed facts dated 14 December 2023.

18. By **4:00 p.m. on Monday, 10 June 2024**, the Respondent is to:

- a. Provide his comments to the Applicant's 5 June 2024 submission and, as relevant, inform the Tribunal about his efforts to ensure SR's possible appearance as a witness.
- b. File the documentation requested by the Applicant with reference to paras. 9-19 of Order No. 056 (NY/2024).

19. The schedule of the hearing is amended as follows, with the party leading the witness stated in parenthesis:

a. **Monday, 24 June 2024**

- i. From 9:30 a.m. to 10:00 a.m.—introduction by the Tribunal, opening statements, possible case management matters
- ii. From 10:00 a.m. to 12:00 p.m.—the Applicant (the Applicant)
- iii. From 12:00 p.m. to 1:00 p.m.—lunch break
- iv. From 1:00 p.m. to 3:00 p.m.—the Complainant (the Respondent)

b. **Tuesday, 25 June 2024**

- i. From 8:55 a.m. to 9:00 a.m.—introduction by the Tribunal, possible case management matters
- ii. From 9:00 a.m. to 10:00 a.m.—MS (the Applicant)
- iii. From 10:00 a.m. to 11:00 a.m.—AR (the Applicant)
- iv. From 11:00 a.m. to 12:00 p.m.—MR (the Applicant)

c. **Wednesday, 26 June 2024**

- i. From 9:25 a.m. to 9:30 a.m.—introduction by the Tribunal, possible case management matters
- ii. From 9:30 a.m. to 10:30 a.m.—PG/current RSG (the Applicant)
- iii. From 10:30 a.m. to 11:30 a.m. (tentatively)—SR/former RSG (the Applicant)
- iv. From 11:30 a.m. to 12:30 p.m.—closing statements by the parties, possible case management matters

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 Margaret Tibulya

Dated this 4th day of June 2024

Entered in the Register on this 4th day of June 2024

(Signed)

Isaac Endeley, Registrar, New York