



Before: Judge Francis Belle

Registry: New York

Registrar: Isaac Endeley

ELOBAID

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Martine E. Lamothe, OSLA
Aly Ahmed, OSLA

Counsel for Respondent:

Albert Angeles, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 118 (NY/2024) dated 27 November 2024, the Tribunal ordered (a) the Respondent to present the list of witnesses whom he would like to call in case a hearing is to be held and state the disputed facts that his witnesses are to corroborate and/or refute, including by specific reference to the consolidated list of disputed facts, by 4 December 2024, and (b) the parties to attend a Case Management Discussion (“CMD”) on 6 December 2024 in order to discuss the Applicant’s disclosure requests and the possibility of calling a hearing, including possible witnesses and date(s).
2. On 4 December 2024, the Respondent filed his submission as per Order No. 118 (NY/2024).
3. On 6 December 2024, the parties attended the CMD.

Consideration

Additional written documentation

4. At the CMD, Counsel for the Applicant reiterated his requests that the following information be disclosed:
 - a. “[T]he current status of the OHCHR Yemen Office’s procured works by Dar Al-Amer and Lebna Architect company”;
 - b. “[T]he status of Dar Al-Amer company with the [United Nations Development Programme, “UNDP”];
 - c. “[T]he starting date of the lease contract with the Yemeni landlord for the premises for the Yemen [country office], and if the value of the rent increased since the starting date or not”.
5. The Respondent objected thereto on the basis of irrelevance.
6. The Tribunal notes that that evidence is only relevant insofar as it is produced to either corroborate or refute a particular disputed fact—if the parties

agree on a certain fact, then the Tribunal must accept it as is (see, for instance, the Appeals Tribunal in *Ogorodnikov* 2015-UNAT-549). A party must therefore be able to explicitly point to what disputed fact(s) each piece of evidence relates by making reference to the relevant paragraph number(s) in the joint consolidated list of disputed facts.

7. Consequently, the Tribunal will instruct the Applicant to indicate the disputed fact(s) concerning which each of the requested documents relate, including by making specific reference to paragraph number(s) in the joint consolidated list of disputed facts. The Respondent will then be offered the opportunity to comment thereon after which the Tribunal will make its decision.

Oral evidence (witnesses)

8. The Applicant reiterated his request to call himself and MA, a former Security Coordination Officer of the OHCHR Yemen Office for direct examination, as well as NO, a former Administrative and Finance Associate of OHCHR Yemen, and MAL, the current OHCHR Yemen Office's Administrative and Finance Officer, for cross-examination (all names redacted for privacy reasons).

9. In the Respondent's 4 December 2024 submission, he indicates that he does not wish to call any witnesses. He also "recalls his earlier position that the evidentiary record is extensive and complete to enable the Tribunal to conduct a judicial review of the Administration's decision" and that in "line with Article 9(4) of the Statute of the Dispute Tribunal, the case may be adjudicated on the papers". At the CMD, he further stated that none of the Applicant's proposed witnesses would be relevant to the determination of the present case.

10. In light of the Respondent's objection against the Applicant's proposed witnesses, the Tribunal will therefore order the Applicant to indicate what disputed facts in the consolidated list of facts that each of these witnessed is to either corroborate or refute, including by making specific reference to the relevant paragraph number in the list. The Tribunal further notes that should a witness be allowed to provide testimony at a hearing, the examination of that witness would be limited to establishing or rejecting the relevant disputed fact. Finally, the

Tribunal will instruct the Applicant to propose dates for a hearing to be held as soon as possible. At the CMD, Counsel for the Applicant stated that he expected that his two witnesses could be available by mid-January but did not know about the Respondent's proposed witnesses. The Respondent will subsequently be able to provide his comments to the Applicant's submissions, also on the possible hearing dates and the availability of his potential witnesses.

11. In light of the above,

IT IS ORDERED THAT:

12. By **10:00 a.m. on Thursday, 12 December 2024**, the Applicant is to indicate what disputed facts in the consolidated list of disputed facts that (a) the documents, which he wishes the Respondent to disclose, and (b) his proposed witnesses are to either corroborate or refute, including by making specific reference to the relevant paragraph numbers in the list. In addition, the Applicant is to propose dates for a potential hearing in mid-January 2025.

13. By **10:00 a.m. on Monday, 16 December 2024**, the Respondent is to provide his comments to the Applicant's 12 December 2024 submissions, including on possible hearing dates and the availability of his potential witnesses.

(Signed)

Judge Francis Belle

Dated this 9th day of December 2024

Entered in the Register on this 9th day of December 2024

(Signed)

Isaac Endeley, Registrar, New York