



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/026
Order No.: 058 (NY/2025)
Date: 25 June 2025
Original: English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Sètondji Roland Adjovi, Etudes Vihodé Ltée

Counsel for Respondent:

Jacob B. van de Velden, DAS/ALD/OHR, UN Secretariat

Maria Romanova, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 050 (NY/2025) dated 15 May 2025, the Tribunal ordered the parties to file (a) certain information and/or documentation in follow-up to the hearing and various motions, and (b) written closing statements. Upon the instructions of the undersigned Judge, Order No. 050 (NY/2025) was not immediately published on the website of the Dispute Tribunal in light of its content and the Applicant's motion for anonymity stated in the application.

2. On 23 May 2025, the Applicant filed a "request for consistent publishing of case orders".

3. On 12 June 2025, the parties filed the information and/or documentation in response to Order No. 050 (NY/2025). The Respondent filed certain documents *ex parte* due to their alleged confidentiality.

4. On 18 June 2024, the Applicant filed a request for extension of time to file his written closing statement.

Consideration

Publishing written orders

5. In the Applicant's 23 May 2025 request he, *inter alia*, submits that:

... the Applicant is not aware of any protective order that would justify some orders not being published while others are. The Tribunal has already ruled that the case is anonymized and proceedings closed to the public. The Applicant does not object to ALL orders in the instant case NOT being published if the Tribunal so instructs. However, if some orders are published, then the Applicant submits that all should be published unless there are reasons provided.

6. The Tribunal notes that in Order No. 093 (NY/2024) dated 16 September 2024, the Duty Judge stated that the Applicant had “request[ed] in the application ‘for this case to be anonymized given his own personal circumstances and the nature of the allegations’”. The Duty Judge found that “this question is one for the judge to whom the case will be assigned to further entertain and determine” and “[f]or now ... therefore direct[ed] the Registry not to publish [Order No. 093 (NY/2024)], noting that it [would] thereby be kept confidential in accordance with paras. 3(a), 3(d) and 16 of Practice Direction No. 6 (records)”. Subsequently, before deciding on the question of anonymity, the undersigned Judge also decided not to publish Order No. 017 (NY/2025) dated 5 February 2025.

7. In Order No. 021 (NY/2025) dated 14 February 2025 the Tribunal granted the Applicant’s request for anonymity, holding, *inter alia*, that (see para. 28):

... The Tribunal notes that similar to *AAE* [2023-UNAT-1332], the present case involves matters, including the admitted extramarital relationship between the Applicant and the alleged victim, that might have a negative impact that goes beyond “personal embarrassment and discomfort” and could raise serious concerns regarding “the privacy of individuals”, in particular the blameless family of the Applicant. Thus, the final judgment may likely make extensive references to this extramarital relationship, which, in principle, could remain indefinitely on the Dispute Tribunal’s website and therefore in the public sphere. Also as in *AAE*, “there is no evidence that the Appellant will re-offend or needs to be deterred in the future”, and publication of the Applicant’s name “would be for more punitive purposes than for transparency”. The Applicant’s appointment has already been terminated through the contested decision, and should the Tribunal uphold this decision, the publication of the name would rather be for “naming and shaming” of the Applicant in the public. Should the application, on the other hand, be granted, the Applicant’s and victim’s family name and reputation will unjustly be tainted in public as long as the final judgment is accessible on the website of the Dispute Tribunal.

8. The Tribunal notes that the Applicant in his 23 May 2025 request does not take issue with Order No. 050 (NY/2025) being published despite its content but rather seeks consistency in terms of the publication of the Tribunal's written orders. The Tribunal will therefore order all written orders in the present case to be anonymized, including also the first order, namely Order No. 076 (NY/2024) dated 2 July 2024, and instruct the Registry to publish them all as such.

Ex parte filing of the Respondent

9. By his 29 April 2025 motion, the Applicant requested AW to provide documentation concerning "her therapy" and "application history in Inspira". By Order No. 050 (NY/2025), the Tribunal granted the Applicant's request and ordered the Respondent to file the relevant documentation.

10. Appended to his 12 June 2025 submission, the Respondent filed the relevant document *ex parte*. In support of this restriction, he submitted that:

... That the Tribunal 'cannot rule out relevancy' is no valid basis for document production. The Tribunal should rule on relevancy before ordering production to avoid fishing expeditions. For this reason, the Respondent submits the documentation *ex parte* so the Tribunal can rule on relevance. The documents contain [AW's] confidential information – medical and professional – to which the Applicant should not be privy unless that information is relevant.

11. The Tribunal notes that under art. 18.2 of its Rules of Procedure, it "may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings".

12. In the words of the Respondent, “[t]hat the Tribunal ‘cannot rule out relevancy’” is therefore indeed “a valid basis for document production” pursuant to art. 18.2 of its Rules of Procedure—in the failure of producing the requested documents, the Tribunal cannot assess if they are relevant or not. Further, the Applicant’s disclosure requests cannot be defined as a “fishing expedition”, as submitted by the Respondent, since the Applicant described the relevant documentation with the required specificity in accordance with the Appeals Tribunal’s jurisprudence to identify it (see, for instance, *Rangel* Order No. 256 (2016)).

13. When now reviewing the documents filed by the Respondent, the Tribunal finds that they indeed appear “to be necessary for a fair and expeditious disposal of the proceedings”.

14. Regarding *ex parte* filing of documents, the Appeals Tribunal has held that this is “the antitheses of transparency and should never take place during a proceeding” (see, *Abu Jarbou* 2013-UNAT-292, para. 33, and similarly, in *Nkoyock* 2023-UNAT-1401, para. 64: “To decide a case on evidence that is known to one party and to the Dispute Tribunal but is kept from the other party, is not consistent with and indeed is antithetical to, an independent and neutral Dispute Tribunal established by the General Assembly.”).

15. Accordingly, the Tribunal will lift the *ex parte* restriction of the relevant documents. At the same time, the Tribunal wishes to assure AW that it will limit any references in the judgment to sensitive information contained in the relevant documents to an absolute minimum, and also reminds Counsel for the Applicant that this information is to be kept confidential as per Practice Direction No. 6 on records.

Extension of time to file closing statements

16. By Order No. 050 (NY/2025), the Tribunal ordered the Applicant to file his written closing statement by 25 June 2025.

17. By the Applicant's 18 June 2025 request for time extension, he seeks an extension to this deadline of one week to 2 July 2025, noting that his Counsel has a trial in Geneva from 23-25 June 2025.

18. Observing that the Respondent has not objected to the Applicant's request, the Tribunal will grant it and add an additional week for the Applicant to file his closing statement to 9 July 2025. The other time limits related to the parties' filing of closing statements in Order No. 050 (NY/2025) are also extended by two weeks (see, paras. 45 and 46, respectively).

19. In light of the above,

IT IS ORDERED THAT:

20. The Applicant's 23 May 2025 request is granted. All the Tribunal's written orders in the present case are therefore to be anonymized after which the Registry is instructed to publish them as such on the Dispute Tribunal's website.

21. The *ex parte* restrictions of the documents filed by the Respondent on 12 June 2025 are to be lifted.

22. The Applicant's request for a one-week extension of time to file his closing statement by **4:00 p.m. on Wednesday, 9 July 2025** is granted. Similarly, (a) the Respondent is to file his written closing statement by **4:00 p.m. on Wednesday, 30 July 2025** and (b) the Applicant is to file any final observation by **4:00 p.m. on Monday, 4 August 2025**.

(Signed)

Judge Solomon Areda Waktolla

Dated this 25th day of June 2025

Entered in the Register on this 25th day of June 2025

(Signed)

Isaac Endeley, Registrar, New York