



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/071
Order No.: 156 (NBI/2022)
Date: 27 October 2022
Original: English

Before: Judge Agnieszka Klonowiecka-Milart
Registry: Nairobi
Registrar: Abena Kwakye-Berko

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Nicole Wynn, AS/ALD/OHR, UN Secretariat
Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant filed an application on 20 August 2022 contesting the decision to deny their request to “have [their] gender in United Nations administrative systems reflect [their] gender identity”.
2. The Respondent filed a reply to the application on 20 September 2022.
3. The Tribunal held a case management discussion with the parties on 26 October 2022 and made the following orders:

ORDERS

4. **By 17 November 2022:**
 - a. The Respondent to stipulate or disprove that the state of the Danish Passport law relevant for the time of the Applicant’s obtaining the “X“ marker in their national passport is properly as presented in the Applicant’s annex 3, and confirmed by the Danish Ministry of Foreign Affairs (“MoFA”) in the Applicant’s annex 4, and that an adequate translation into English, as confirmed by MoFA in annex 4 (save the translation of the word køn, which MoFA maintains to be gender), is:

The local council may permit that the sex is indicated as X if a passport applicant, of age 18 or above, submits a written declaration which states that the wish to have the sex indicated as X is founded in the experience of belonging to the opposite sex, or the applicant produces evidence to previously having been granted a new social security number in accordance with Paragraph 3 Section 6 in law on Central Register of Persons.
 - b. Accordingly, the Respondent to stipulate or disprove that the state of the said law described in annex R/1 took effect after the Applicant obtained the designation X in their passport, and the basis for having the designation X in

the passport did not at that time include the cases emphasized in the excerpt cited below:

*“The Local Council may give permission to use the gender designation “X” if a passport applicant submits a written declaration to the effect that the wish to use the gender designation “X” is based on the experience of belonging to the other gender, **the person in question being intersexed, not identifying as male or female** or if the person in question provides documentary evidence for having previously been given a new civil registration number (CPR No.) pursuant to § 3 (7) of the Danish Act on the Civil Registration System.”*

c. The Respondent to stipulate or disprove that, as stipulated by the Applicant, the Danish word “køn”, used, *inter alia*, in the Applicant’s passport and translated as “sex, sexe” in English and French translation, denotes either sex or gender.

d. Absent proof to the contrary, the Tribunal will accept the response obtained by the Applicant from the Danish MoFA as to the state of the relevant Passport Law (Applicant’s annex 4) as accurate, and his statement about the use of the word “køn” as true.

e. Noting that it is undisputed between the parties that the Organization’s platform Umoja purports to record “gender” rather than “sex”, and does it in a binary manner, the Respondent will confirm on what basis it is being recorded this way or another, in particular whether it is based on the information in staff members’ passports. The Respondent will explain the choice of the term “gender” for Umoja purposes and what meaning is attributed to this term in the Umoja context, in particular, whether it is meant to be different than “sex”, and, if so, whether it denotes “legal gender” recognized for the purpose of personal status or is to be regarded coterminous with gender identity (conception of self) alone.

f. Both parties are invited to make submissions, if they so wish, regarding whether ST/AI/2020/5 (Temporary special measures for the achievement of

gender parity) is applicable based upon sex, “legal gender” recognized for the purpose of personal status, gender identity alone or otherwise. Such submissions will not exceed one page.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 27th day of October 2022

Entered in the Register on this 27th day of October 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi