



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Ana Giulia Stella, OSLA

Counsel for Respondent:

Albert Angeles, UN Secretariat

Lucienne Pierre, UN Secretariat

Introduction

1. By Order No. 007 (NY/2022) dated 14 January 2022, the Tribunal instructed the parties to file by 7 February 2022: (a) joint and consolidated lists of the agreed and contested facts; (b) individual and separate submissions concerning any additional written or oral evidence that they wished to adduce.
2. On 7 February 2022, the parties duly complied with Order No. 007 (NY/2022).

Consideration

Additional written evidence

3. In the Applicant's 7 February 2022 submission on additional written evidence, he requests leave to submit the following additional documentation:
 - a. "A certificate from [name redacted, Dr. BH], M.D., [name redacted, a medical clinic in] New York proving the Applicant's eye surgeries in 1996";
 - b. "A letter of 27 September 2007 from [the United Nations Joint Staff Pension Fund] confirming the Applicant's Entry on Duty date (1 October 1989) and separation date (7 September 2004) during his first tour of duty in the United Nations";
 - c. "A photograph showing [the alleged victim, AA's] father, [AA's] mother and the Applicant sharing a picnic in late May 1996, in which the Applicant may be seen wearing protective glasses due to his eye surgeries";
 - d. "The Applicant's contracts with the International Atomic Energy Agency (IAEA) from 17 June 2012 to 16 June 2019".

4. In the Respondent’s 7 February 2022 submission, he submits that he “does not request that any additional information be disclosed”. Subsequent to the Applicant’s 7 February 2022 submission on additional written evidence, the Respondent has made no objection to the Applicant’s request therefor.

5. Accordingly, the Tribunal will allow the Applicant’s additional evidence.

Witness testimonies

6. The Tribunal notes that, as already stated in Order No. 007 (NY/2022), the very purpose of producing evidence—written or oral—is to substantiate the specific relevant facts on which the parties disagree. Accordingly, there is, in essence, only a need for evidence if a fact is relevant and disputed.

7. After closely perusing the parties’ submissions and the jointly-signed statement of 7 February 2022 on agreed and disputed facts, the Tribunal notes that the basic factual disagreement hinges on what actually occurred at various disputed incidents that took place between 1989 and 1997 involving the Applicant, AA (who, at the relevant time, was an underaged girl) and AA’s parents, as well as at different contested subsequent events in 2018 and 2019.

8. In the Applicant’s 7 February 2022 submission, he submits that he would like to call the following persons to give testimony:

- a. Himself;
- b. His wife to “particularly provide evidence on”:
 - i. “The friendship and events between the Applicant’s and [AA’s] families”;
 - ii. “The babysitting episode”;
 - iii. “The tennis lessons alleged by [AA and AA’s] parents”;

- iv. “Interaction between the Applicant and [AA’s] father after 1996”;
 - v. “The reasons for the Applicant to move to Russia in 2004”;
- c. BB, the Applicant's old family friend from early 1990s, who to “particularly provide evidence on”:
- i. “The Applicant’s friendship with [AA’s] family when the Applicant’s daughter turned 1 year old, confirming that parties between the families took place until around 3 June 1999”
 - ii. “The Applicant’s behaviour”;
- d. CC, an old-time colleague of the Applicant and AA’s father, who “will particularly provide evidence on”:
- i. “The communication between the Applicant and [AA’s] father after 1996”;
 - ii. “Events involving colleagues in the Russian Translation Services, including those in the framework of the Russian Book Club”;
9. The Applicant further submits that he would like to call AA, AA’s mother and AA’s father as witnesses insofar as the Respondent does not do so.
10. In the Respondent’s 7 February 2022 submission, he submits that “whether the Respondent calls any witnesses will be dependent on which, if any, witnesses the Applicant intends to call, the reasons the Applicant sets forth for calling such witnesses, and whether the Dispute Tribunal requires any additional information from witnesses other than what is already on record”. The Tribunal notes that the Respondent has filed no submissions in response to the Applicant’s 7 February 2022 submission concerning proposed witnesses.

11. The Respondent further notes that during the investigation undertaken by the Office of Internal Oversight Services (“OIOS”), the following persons were interviewed: the Applicant, AA, AA’s mother, AA’s father, DD and EE. The Tribunal notes that audio recording have been submitted in evidence by the Respondent of all these interviews, but that no written record is on file, except for an unofficial transcript of AA’s mother’s interview.

12. Consequently, the Tribunal will allow the witnesses proposed by the Applicant and instruct the Respondent to file any available transcripts of OIOS’s interviews.

13. In light of the above,

IT IS ORDERED THAT:

14. By **10:00 a.m., on Thursday, 14 April 2022**, the Respondent is to file any available transcripts of the interviews conducted by OIOS;

15. A hearing is to be held at which the Applicant will call the following witnesses in examination-in-chief: the Applicant, the Applicant’s wife, BB and CC, after which the Respondent will have the opportunity to cross-examine each witness. The Respondent will call the following witnesses in examination-in-chief: AA, AA’s mother, and AA’s father (this can be done by confirming the content of any available OIOS transcripts of the investigation interviews). Each party will be allowed the following time to question each witness: the Applicant (1½ hours); the Applicant’s wife, AA’s mother and AA’s father (1 hour each); BB and CC (½ hour each).

16. The hearing will take place on **Tuesday, 10 May and Wednesday, 11 May 2022**. Each party is to confirm the availability of each of their witnesses to the Tribunal by **10:00 a.m., on Thursday, 14 April 2022**. The exact schedule will thereafter be determined by the Tribunal, noting that the Applicant will be the first witness and that the timing of the hearing of the Applicant’s wife will further depend on the interpretation service at the United Nations Secretariat (the Registry will liaise therewith when her availability has been confirmed).

17. Other practicalities will be handled in the scheduling order and by the Registry in communication with the parties.

(Signed)

Judge Joelle Adda

Dated this 6th day of April 2022