



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER TO CALL A WITNESS

Counsel for Applicant:

Marcos Zunino, OSLA
Ana Giulia Stella, OSLA

Counsel for Respondent:

Isavella Maria Vasilogeorgi, AAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 176 (GVA/2021) of 7 December 2021, the Tribunal instructed the parties, *inter alia*, to file their respective list of witnesses by 17 December 2021 while ensuring their availability at a hearing to be held from 24 to 27 January 2022.

2. On 16 December 2021, the parties filed their respective list of witnesses. The Applicant informed the Tribunal that, in addition to himself, he would like to call two witnesses, and indicated his intention to call V01 and Ms. L. G. L., if they were not called by the Respondent. The Respondent informed the Tribunal that he would like to call V01 as his sole witness for the oral hearing.

3. By Order No. 1 (GVA/2022) of 6 January 2022, the Tribunal instructed the Applicant, *inter alia*, to inform the Tribunal about the availability of Ms. L. to attend the hearing by 10 January 2022.

4. On 10 January 2022, the Applicant filed a motion to request the Tribunal to call Ms. L. as a witness of the Respondent and to instruct the Respondent to confirm her availability to attend the hearing.

5. On 11 January 2022, the Respondent responded to the above motion requesting, *inter alia*, that the Applicant's motion of 10 January 2022 regarding the testimony of Ms. L. be dismissed.

Consideration

6. In support of his motion, the Applicant submitted that Ms. L. should be considered a witness of the Respondent whom he should have a right to cross-examine because the Respondent relied on Ms. L.'s statement to corroborate V01's version of the facts.

7. In this respect, the Tribunal recalls that art. 17 of its Rules of Procedure provides in its relevant part that:

1. The parties may call witnesses and experts to testify. The opposing party may cross-examine witnesses and experts. The Dispute Tribunal may examine witnesses and experts called by either party and may call other witnesses or experts it deems necessary. The Dispute Tribunal may make an order requiring the presence of any person or the production of any document.

...

6. The Dispute Tribunal shall decide whether the personal appearance of a witness or expert is required at oral proceedings and determine the appropriate means for satisfying the requirement for personal appearance. Evidence may be taken by video link, telephone or other electronic means.

8. Having reviewed the submissions on record, the Tribunal considers that the testimony of Ms. L., whose statements were relied upon by the Respondent in the making of the contested decision, is crucial for a fair determination of the present matter. Hence, the Tribunal finds that the appearance of Ms. L. at the hearing is required. Accordingly, the Tribunal will grant the Applicant's motion and formally summon Ms. L. to appear at the hearing on the merits pursuant to art. 17.1 of its Rules of Procedure.

9. The Tribunal further wishes to point out that any difficulty for the witness to appear in person at the hearing may be alleviated by her participation through electronic means, as provided by art. 17.6 of the Tribunal's Rules of Procedure.

Conclusion

10. In view of the foregoing, it is ORDERED that:

- a. Ms. L. G. L. shall appear to give evidence at the hearing, which will be held through the online platform Microsoft Teams as previously determined;
- b. The Respondent shall use his best endeavours to ensure the availability of the above summoned witness for the hearing; and

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c. The Respondent inform the Tribunal about the availability of Ms. L. to attend the hearing by **Friday, 14 January 2022**.

(Signed)

Judge Teresa Bravo

Dated this 12th day of January 2022

Entered in the Register on this 12th day of January 2021

(Signed)

René M. Vargas M., Registrar, Geneva