



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/026  
Order No.: 037 (NY/2025)  
Date: 3 April 2025  
Original: English

**Before:** Judge Solomon Areda Waktolla

**Registry:** New York

**Registrar:** Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**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. 031 (NY/2025) dated 14 March 2025, the Tribunal ordered that the hearing is to be held from 8 to 11 April 2025 virtually via MS Teams and set out its schedule. It further ordered the Respondent to confirm the participation of all witnesses, except the Applicant, at the hearing, and if certain witnesses would not be available at the given date and/or time, to propose an alternative time slot during the period from 8 to 11 April 2025 and present an alternative hearing schedule. Finally, each of the parties was ordered to submit its paginated bundles of written evidence, if any, to which it intends to refer during the hearing by 3 April 2025.

2. By email of 25 March 2025, Counsel for the Respondent, not copying Counsel for the Applicant, informed that:

- a. No witnesses are available on 9 April 2025.
- b. Three witnesses are confirmed for 10 April 2025, and VK could be rescheduled to testify on 10 April 2025 at 2.15 p.m. as WW is not available before 18 April 2025.
- c. Two witnesses are confirmed for 11 April 2025, but MW is only available from 18 April 2025. AK and ER could instead be included after the lunch break as both have indicated their availability on this date.
- d. AS is only available from 14 April 2025.

3. On 25 March 2025, Counsel for the Respondent submitted a motion for certain protective measures in respect of the Complainant. On the same date, Counsel for the Applicant filed a response to the motion.

4. By email of 25 March 2025, Counsel for the Applicant requested that the Registry prepare a common hearing bundle of documents instead of the individual bundles as per Order No. 031 (NY/2025).

5. By email of 1 April 2025, Counsel for the Respondent, not copying Counsel for the Applicant, submitted an alternative hearing schedule, reflecting the submissions stated in his 25 March 2025 email.

### **Consideration**

#### *Hearing schedule*

6. The Tribunal notes that standard practice before the Dispute Tribunal is that parties are to file all case-related submissions through its eFiling portal (the Court Case Management System, “CCMS”) and not by other means, including email (in line herewith, see Practice Direction No. 5). Only if parties cannot access CCMS may they file submissions via email, and when doing so, the opposite party shall always be copied therein. Emails are only to be used to address the Registry on technical and/or administrative issues.

7. The Tribunal takes note of the Respondent’s submissions regarding the availability of the witnesses and the proposed alternative hearing schedule. The Tribunal will, however, not be able to fully follow this schedule and has instead set out an amended schedule below. The Respondent is to ensure the witnesses’ availability and confirm their participation to the Tribunal.

#### *Closing the hearing*

8. In the Applicant’s 6 March 2025 submission, he requests that “the hearing needs to be held in closed session for most of it because of the discussion that would

be linked to the actual relation between the Applicant and [the Complainant]”. The evidence of AK, SM, DJ, WW and BL would “not be related to” this relationship and could be heard in public, although the parties should “follow clear instruction from the Tribunal not to mention the identity of either the Applicant or [the Complainant]”.

9. In the Respondent’s 25 March 2025, he requested that the Complainant’s testimony be closed from the public as a protective measure.

10. Considering the parties’ submissions and the sensitive personal topics involved in present case, as well as to ensure that witnesses feel comfortable and under no undue outside pressure, the Tribunal decides that exceptional circumstances require that the entire hearing is to be closed from the public in accordance with art. 16.6 of its Rules of Procedure.

*Other protective measures requested by the Respondent*

11. In the Respondent’s 25 March 2025 motion, he also requests that (a) the Complainant’s testimony be heard “in the absence of the Applicant”, (b) the Complainant be permitted to “be accompanied by a support person”, and (c) the Applicant be reminded that “recording of the hearing is not permitted, and that he may not disclose confidential information from the hearing”. In the Applicant’s response of the same date, he objects to all these measures

12. The Tribunal notes that no explicit legal basis exists for excluding the Applicant from seeing and hearing the Complainant’s testimony, not even in the Appeals Tribunal’s judgment to which the Respondent makes reference, namely AAC 2023-UNAT-1370. Rather, it is indeed very important for the Applicant to be able to observe this testimony for him to possibly provide feedback to his Counsel for the cross-examination. As the Applicant’s computer camera and microphone are to be

switched off during the Complainant's entire testimony, she will not need to see or hear the Applicant and thereby be as shielded from his presence.

13. Regarding the support person, the Complainant will be allowed to have someone to assist her in her near vicinity, but during her testimony, this person cannot be present in the same room and may not be able to communicate with her in any possible manner. The reason is that the support person cannot be perceived as giving the Complainant any type of guidance in what she says or how she behaves, but as a support person, he or she can physically be present immediately outside the room and thereby provide comfort to the Complainant if needed.

14. Finally, the Tribunal notes that it is standard practice at hearings before the Tribunal, that participants are not allowed to make any type of private recordings. Subsequent to the hearing, upon request and subject to signing a confidentiality agreement, the Registry will instead provide a video recording to the relevant party, which is only to be used for the purpose of the proceedings of the present case and for no other objective. The same restrictions apply to any confidential information disclosed at the hearing.

*The paginated bundles for the hearing*

15. In response to the Applicant's 25 March 2025 request, the Tribunal notes that the Registry does not know to what documents the parties may wish to refer during the witness testimonies. Also, the Registry does not have relevant capacity to assemble such a bundle for the parties. Accordingly, it is therefore not possible for the Registry to do so, and the instructions from the Tribunal in Order No. 031 (NY/2025) will stand, although the parties will be granted until 7 April 2025 to submit their bundles.

16. At the hearing, when a Counsel wishes to show a written document to a witness for his or her comments, he is to do so himself by using the “share” function in MS Teams. Any technical questions in this regard are to be addressed to the Registry in advance of the hearing. Otherwise, the Tribunal will expect that both Counsel are fully aware of this functionality and are able to use it at the hearing without unnecessarily delaying the proceedings.

17. In light of the above,

IT IS ORDERED THAT:

18. The hearing is to be closed to the public.

19. During the testimony of the Complainant:

a. The Applicant has the right to be present, observe and hear the testimony of the Complainant, but his computer camera and microphone are to be switched off.

b. The Complainant will be allowed to have a support person present outside the room from where she is presenting her oral testimony. This person may not in any possible manner be able to communicate with the Complainant during the testimony.

20. By **4:00 p.m. on Thursday, 3 April 2025**, the Respondent is to confirm the participation of all witnesses, except the Applicant, for the hearing schedule set out below.

21. By **12:00 p.m. on Monday, 7 April 2025**, each of the parties is to submit its paginated bundles of written evidence to which it intends to refer during the hearing.

22. The schedule of the hearing is as follows (New York time) and Counsel for the Applicant is to lead all the witnesses in direct examination, except the Complainant:

a. **Tuesday, 8 April 2025**

- i. From 9:15 a.m. to 9:30 a.m.—introduction by the Tribunal and possible preliminary case management matters
- ii. From 9:30 a.m. to 12:30 p.m.—the Applicant
- iii. From 12:30 p.m. to 1:30 p.m.—lunch break
- iv. From 1:30 p.m. to 4:30 p.m.—the Complainant

b. **Thursday, 10 April 2024**

- i. From 9:30 a.m. to 10:40 a.m.—TI
- ii. From 10:45 a.m. to 11:55 a.m.—SM
- iii. From 12:00 p.m. to 1:00 p.m.—lunch break
- iv. From 1:00 p.m. to 2:10 p.m. —DJ
- v. From 2:15 p.m. to 3:45 p.m.—VK

c. **Friday, 11 April 2024**

- i. From 9:30 a.m. to 10:40 a.m.—BL
- ii. From 10:45 a.m. to 11:55 a.m.—EHM
- iii. From 12:00 p.m. to 1:00 p.m.—lunch break

iv. From 1:00 p.m. to 2:40 p.m.—ER

v. From 2:45 p.m. to 4:35 p.m.—AK

d. **Tuesday, 22 April 2025**

i. From 9:15 a.m. to 10:25 a.m.—WW

ii. From 10:30 p.m. to 11:50 a.m.—MW

e. **Wednesday, 23 April 2025**

i. From 9:15 a.m. to 10:45 a.m.—AS

*(Signed)*

Judge Solomon Areda Waktolla

Dated this 3<sup>rd</sup> day of April 2025

Entered in the Register on this 3<sup>rd</sup> day of April 2025

*(Signed)*

Isaac Endeley, Registrar, New York