



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/033
Order No.: 104 (NY/2023)
Date: 16 October 2023
Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

AGUILAR VALLE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Isavella Maria Vasilogeorgi, DAS/ALD/OHR, UN Secretariat
Miryoung An, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 078 (NY/2023) dated 6 September 2023, the Tribunal scheduled a hearing from 6 to 10 November 2023 and issued certain orders to the parties.

2. In light of the parties' responses, by Order No. 090 (NY/2023) dated 22 September 2023, the Tribunal, *in alia*, set out the tentative agenda for the hearing, and ordered the parties to confirm the participation of their witnesses. The Tribunal also noted that “[t]he Registry will, in due course, apprise the parties regarding (a) the technical arrangements for how witnesses who will not be able to be physically present in the courtroom can provide their testimonies remotely and (b) the special arrangements for the Spanish-English interpretation of MU’s testimony”.

Consideration

The need for Spanish-English interpretation

3. Whereas Counsel for the Applicant, in his 11 August 2023 submission, indicated that Spanish-English interpretation would be needed for one of his witnesses, Counsel for the Respondent only made the request for Spanish-English interpretation of the testimonies of his eight witnesses in his 6 October 2023 submission.

4. The Tribunal notes that parties are responsible for the participation of their witnesses in a hearing, including by making timely requests for interpretation in order to allow the Tribunal to make the appropriate arrangements through its Registry. A request for interpretation should therefore be made as early as possible during the proceedings and not after the hearing has been scheduled and a tentative agenda has been set out.

5. In the present case, in Counsel for the Respondent’s 11 August 2023 submission, nine witnesses were requested to provide testimonies, but no requests for Spanish-English interpretation were made. Rather, Counsel for the Respondent

objected to the Applicant's written witness statement being written in English when he requested to hear MU in Spanish. Neither in Counsel for the Respondent's subsequent submission, which was dated 12 September 2023, was any request made for Spanish-English interpretation even if Counsel set forward exactly the same nine witnesses to be heard. Only in Counsel for the Respondent's 6 October 2023 submission was the need for Spanish-English interpretation assistance of the eight witnesses stated and no explanation was offered as to why this request had not been presented before. On 9 October 2023, the Tribunal therefore instructed the Registry to affirm that Counsel for the Respondent indeed requested such interpretation services, which Counsel did in an email of the same date.

A new hearing schedule and location

6. In response to the belated request of Counsel for the Respondent for Spanish-English interpretation of all his eight witnesses, the Tribunal has been informed that the requested interpretation can only be offered in two-hour slots in the morning and afternoon in Conference Room 5, located in the Secretariat building. No conference room, however, is available on Wednesday, 8 November 2023 in the afternoon.

7. The Tribunal will therefore need to change the previous schedule in light of the timetables and availability of interpretation services and conference room management.

8. Unless either of the parties objects thereto, the testimonies of VM, BP, and AJ, which were initially scheduled for 90 minutes each, will therefore be reduced to 55 minutes each, and the testimonies of VF, HA, AR, RV, FD, PA, LC and AB will be reduced from 60 minutes to 55 minutes. Also, the previous 15-minute introductions and breaks between the witness testimonies on Tuesday, Wednesday, and Thursday will need to be cut down to 5 minutes. AM will not be heard, as according to the Respondent's 6 October 2023 submission, she does not wish to participate in the hearing and cannot be compelled to do so as she no longer works for the United Nations.

9. Given the new circumstances of the hearing, the Tribunal will ask Counsel for the Applicant if he wishes to participate remotely and if he responds in the affirmative, Counsel for the Respondent will also be required to do so in the spirit of equality of arms. While the parts of the hearing that need interpretation will be conducted from Conference Room 5, the remaining parts will be conducted from the premises of the Dispute Tribunal in New York. If the parties and some witnesses are to participate in the hearing in person, the physical locations of the hearing will be the courtroom of the Dispute Tribunal or Conference Room 5 of the Secretariat building. The Registry will, in due course, provide further information of the technical requirements and details for remote participation.

10. In light of the above,

IT IS ORDERED THAT:

11. The revised tentative agenda of the hearing is as follows:

a. **Monday, 6 November 2023,**

- i. From 9:30 a.m. to 10:00 a.m. (premises of the Dispute Tribunal)—introduction by the Tribunal and opening statements by the parties
- ii. From 10:00 a.m. to 12:00 p.m. (premises of the Dispute Tribunal)—the Applicant

b. **Tuesday, 7 November 2023,**

- i. From 9:30 a.m. to 9:35 a.m. (Conference Room 5)—introduction by the Tribunal
- ii. From 9:35 a.m. to 10:30 a.m. (Conference Room 5)—VM (the Respondent)
- iii. From 10:35 a.m. to 11:30 a.m. (Conference Room 5)—BP (the Respondent)

iv. From 2:30 p.m. to 2:35 p.m. (Conference Room 5)—
introduction by the Tribunal

v. From 2:35 p.m. to 3:30 p.m. (Conference Room 5)—AJ (the
Respondent)

c. **Wednesday, 8 November 2023,**

i. From 9:30 a.m. to 9:35 a.m. (Conference Room 5)—
introduction by the Tribunal

ii. From 9:35 a.m. to 10:30 a.m. (Conference Room 5)—VF
(the Respondent)

iii. From 10:35 a.m. to 11:30 a.m. (Conference Room 5)—HA
(the Respondent)

d. **Thursday, 9 November 2023,**

i. From 9:30 a.m. to 9:35 a.m. (Conference Room 5)—
introduction by the Tribunal

ii. From 9:35 a.m. to 10:30 a.m. (Conference Room 5)—RV
(the Respondent)

iii. From 10:35 a.m. to 11:30 p.m. (Conference Room 5)—FD
(the Respondent)

iv. From 2:30 p.m. to 2:35 p.m. (Conference Room 5)—
introduction by the Tribunal

v. From 2:35 p.m. to 3:30 p.m. (Conference Room 5)—MU
(the Applicant)

e. **Friday, 10 November 2023,**

i. From 9:30 a.m. to 9:35 a.m. (Conference Room 5)—
introduction by the Tribunal

- ii. From 9:35 a.m. to 10:30 a.m. (Conference Room 5)—AR (the Respondent)
- iii. From 12:30 p.m. to 12:45 p.m. (premises of the Dispute Tribunal)—introduction by the Tribunal
- iv. From 12:45 p.m. to 1:40 p.m. (premises of the Dispute Tribunal)—PA (the Applicant)
- v. From 1:45 p.m. to 2:40 p.m. (premises of the Dispute Tribunal)—LC (the Applicant)
- vi. From 2:45 p.m. to 3:40 p.m. (premises of the Dispute Tribunal)—AB (the Applicant)
- vii. From 3:45 p.m. to 4:15 p.m. (premises of the Dispute Tribunal)—oral closing statements and closure of the hearing by the Tribunal

12. By **4:00 p.m. on Wednesday, 18 October 2023**, each of the parties is to confirm in a submission to the Tribunal his acceptance of the hearing schedule. If either of the parties has any objections thereto, these are to be indicated in the submission.

13. By **4:00 p.m. on Friday, 20 October 2023**, if both parties agree to the amended hearing schedule, the Respondent is to confirm the participation of all his nine witnesses in accordance with the amended schedule.

14. By **4:00 p.m. on Monday, 23 October 2023**, Counsel for the Applicant is to inform whether he wishes to participate remotely or in person.

15. All other orders included in paras. 16 to 19 of Order No. 090 (NY/2023) remain in force.

16. Other practicalities regarding the hearing, as directed by the Tribunal, will, in due course, be handled by the Registry in communication with the parties.

(Signed)

Judge Joelle Adda

Dated this 16th day of October 2023

Entered in the Register on this 16th day of October 2023

(Signed)

Isaac Endeley, Registrar, New York