



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/047
OrderNo.: 178(NY/2020)
Date: 9 November 2020
Original: English

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:
Omar Yousef Shehabi, OSLA

Counsel for Respondent:
Lucienne Pierre, ALD/OHR, UN Secretariat
Isavela Maria Vasilogeorgi, ALD/OHR, UN Secretariat

Introduction

1. On 3 November 2020 from 1:00 p.m. to 4:00 p.m. the Tribunal held a hearing at which a witness provided testimony as per Order No. 162 (NY/2020) dated 22 October 2020. At the beginning of the hearing, the Tribunal explicitly forbade anyone present at the hearing to make any recordings of the hearing, and this instruction was reiterated to the witness upon taking the stand.
2. On 5 November 2020, the Applicant filed a motion to restrict access to case records by which he requests that the Tribunal (a) determine the existing Orders in this case to be confidential and direct their removal from the Tribunal's website; and (b) determine *ex ante* that the Judgment in this case is confidential and direct that it not be published on the Tribunal's website. As the background for this motion, the Applicant explains the following:

Shortly after the hearing concluded, a story regarding the case appeared on Inner City Press, a website run by Mr Matthew Lee, under the following headline: In UN Beer Satisfy [the Applicant] Forced Himself On SL Accenture Contractor As Press Banned [reference to footnote and annex omitted] Times. The story linked to the Twitter account of Inner City Press, which contains a thread of tweets concerning the case [reference to footnote and annex omitted]. These posts include photos taken from the Trial Bureau, as it displayed on the computer of Applicant's counsel and shared with the hearing participants during cross-examination. These photos are of the virtual hearing as it appeared on a participant's computer screen. In other words, the photographs were taken by a participant who granted access to the hearing. These photos include pages of confidential Office of Internal Oversight Services (OIOS) witness statements, and images of [United Nations] personnel participating in the party from which this case arises.

By linking the leaked screenshots of the OIOS witness statements with the Tribunal Order No 153 (NY/2020), which summarised the allegations in this case, Inner City Press was able to identify [names redacted] by their first names. Inner City Press also

identified [name redacted] as a UN staff member and [name redacted] as an [privatization consultancy firm] consultant. Although the article's heading references [information redacted] Contract [name redacted] is not otherwise referenced in the Inner City Press tweets.

According to media reports, the United Nations regards Inner City Press and Mr Lee as *persona non grata*, and has withdrawn Mr Lee's media accreditation, as a result of myriad previous instances which Mr Lee has breached the Organisation's media guidelines [reference to footnote omitted]. These breaches reportedly included live-streaming a UN function that was designated as private. [reference to footnote omitted]

Mr Lee asserts in the Twitter thread that he was denied entry into the virtual hearing in this case. The tweet includes a video which shows Mr Lee, using the moniker "Press", in the hearing's lobby, awaiting admission by Tribunal officials, and being denied entry. [reference to annex omitted]. Applicant and Applicant's counsel recall seeing an entry request the name of Inner City Press during his examination of the video. (Exhibits 2 (os) 9 (ma) 4 (2) (he) 4 () 20 ((a) 4 (r)

in which the first names of two persons who were not involved in the hearing are shown. Inner City Press also discloses these first names next to the photos. The Tribunal further notes that the initials of these two people were also stated in Order No. 153 (NY/2020) dated 8 October 2020.

4. In order to protect the privacy of those people whose first names were disclosed on Inner City Press's Twitter account, the Tribunal will remove all previous orders from the Dispute Tribunal's website stating that the judicial record is already only accessible to the parties pursuant to the Dispute Tribunal's Practice Direction No. 6 on records. As the Dispute Tribunal's Statute provides in its article 1.6 that [t]he judgements of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal, Practice Direction No. 6 specifies that all the Dispute Tribunal's judgements published on its website, in the interest of transparency, the Tribunal will publish judgements in the case, but all references to the case will instead be anonymized and no names will appear in the judgment.

5. In light of the above, and in accordance with article 5 (p)-bd4 Tw [(t)-26-11 (esJ -0.00 EMC /LBody

8. The names of all other individuals mentioned in the forthcoming judgment in this case will be anonymized.

(Signed)

Judge Joelle Adda

Dated this 19th day of November 2020