

Introduction

1. On 2 June 2022, Counsel for the Respondent sent an email to the regular email inbox of the Registry of New York in the present case which was otherwise closed by judgment in Judgment No. UNDT/2020/094. The email read as follows:

Dear Registry,

Kindly advise if the Hearing recordings from above referenced case can be shared. Please note a fact-finding panel is currently reconsidering the case as per the attached UNAT Judgment.

They believe the hearing recordings would be useful evidence in making their fact-finding assessment.

Kindly advise as soon as possible.

2. While the email was only addressed to the Registry and the Applicant was not copied in it, no indication whatsoever was made that it was filed *ex parte*.

3. On 6 June 2022, the Registry responded Counsel for the Respondent as follows:

With reference to your email of 2 June 2022, upon the instructions of Judge Hunter, you are kindly instructed to file a written motion regarding your request.

4. On 15 June 2022, Counsel for the Respondent forwarded a motion for disclosure of hearing record by email to the Registry regular email inbox. This email

In the motion, the Respondent stated as follows
(reference to footnotes omitted):

A. INTRODUCTION

1. disclose the video and audio recordings of the hearing of this matter held on 7, 8, and 18 May 2020 to the Individual Residual Mechanism for Criminal Tribunals (IRMCT) fact-finding panel (Panel) to aid in

execution of Dispute Tribunal Judgment No. UNDT/2020/094 and Appeals Tribunal Judgment No. 2021-UNAT-1137.

B. SUBMISSIONS

2. The Appeals Tribunal held that the IRMCT is required to re- . To that end, the IRMCT has reconvened the Panel to reconsider the complaint.

3. The Panel has requested access to the record of the sworn testimony before the Dispute Tribunal to assist it in determining whether the complaint of prohibited conduct is substantiated. The record of the hearing contains potentially relevant evidence that was not previously available to the Panel, including the testimony of several individuals who did not previously provide statements to the Panel. They include a Legal Officer who was close to the Applicant at the time of the events, the former IRMCT Registrar, the Alternative Focal Point for Women, and the former Medical Director of the then

5. On 15 June 2022, Counsel for the Applicant forwarded the following email to

Dear Registry

Counsel for the respondent has confirmed that its correspondence with

ex parte, for reasons that are unclear to me.

I would appreciate the Registry providing this correspondence.

The applicant intends to respond to the motion within the period provided for in Practice Direction No. 5.

Consideration

6. The Tribunal notes that due to the interest of the confidentiality of the witnesses and the need to keep their identities confidential, email request of 2 June 2022 on an *ex parte* basis.

7. In this regard, the Tribunal notes that case records are generally confidential under Practice Direction No. 6 on records. Also, the hearing in the present case was closed for the public, and subsequently on 19 May 2020, the Respondent signed a confidentiality undertaking regarding the recordings by which he was instructed that

8. In light of the above,

IT IS ORDERED THAT:

9. By **9:00 a.m. on Tuesday, 21 June 2022**, Counsel for the Applicant is to file his comments to the records.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 17th day of June 2022