

Case No.: UNDT/NBI/2023/010
Order No.: 24 (NBI/2024)
Date: 22 February 2024

1. By Order No. 6 (NBI/2024), issued on 19 January 2024, the Tribunal directed that on or before Tuesday, 20 February 2024, the parties should file a joint statement on disputed and undisputed facts. For every disputed fact, each party was to indicate the evidence (document and/or named witness) they intend to offer to prove or disprove that fact.
2. On 20 February 2024, the Respondent filed a document entitled “Respondent’s submission regarding the requested joint statement of agreed and disputed facts.”
3. In the filing, the Respondent indicates that it was not possible to prepare a joint statement. He documents a chronology of steps he undertook to secure the Applicant’s Counsel’s input in the joint statement, but without success.
4. The Tribunal observes that Annex R/7 to the Respondent’s 20 February 2024 filing is an unsigned document titled “Joint Statement of undisputed and disputed facts”. However, the Tribunal notes that no party complied with Order No. 6 (NBI/2024).
5. On the one hand, although as per email of 12 February 2024 from the Applicant’s Counsel to the Respondent’s Counsel, Annex R/7 includes the Applicant’s inputs, it is unsigned. The Tribunal is prepared to accept Annex R/7 as the Applicant’s statement of disputed and undisputed facts as long as he files a signed copy of it. Otherwise, the Applicant is requested to file a duly dated and signed separate statement.
6. On the other hand, the Respondent did not provide his list of witnesses in sec. E of Annex R/7.
7. Finally, the Tribunal notes that in Annex R/7, the Applicant provides a list of 14 witnesses.

8. The parties are reminded that the hearing on the merits of this case is scheduled to take place in the week of 11 to 14 March 2024.

9. In view of the foregoing, IT IS ORDERED that by

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a. The Respondent shall file a list of his witnesses and the subject about which each witness will testify;

b. The Applicant shall file a dated and signed copy of the above-mentioned Annex R/7 as confirmation that it is his statement of disputed and undisputed facts. Otherwise, the Applicant shall file by said date a different statement of disputed and undisputed facts duly dated signed; and

c. The parties are reminded to confirm the availability of their witnesses to testify in the week of 11 to 14 March 2024.

(Signed)

Judge Sean Wallace

Dated this 22nd day of February 2024

Entered in the Register on this 22nd day of February 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi