



INTERNATIONAL TRIBUNAL FOR NATURAL JUSTICE

In late December 2015, the ITNJ accepted an application from the National Child Protection Alliance ('NCPA'). The NCPA was seeking a declaration that the *Family Law Act 1975* (Cth) and its implementation via the Family Courts, the judiciary, the legal system and law enforcement in Australia are in direct breach of the United Nations Convention on the Rights of the Child ('UNCRC'). The NCPA was also seeking a recommendation from the ITNJ that legislative changes be made within Australia to better recognise the rights of children.

A directions hearing for the matter of *National Child Protection Alliance ('NCPA') v Commonwealth of Australia* was held on Friday 12 February 2016 at 3PM (GMT+11), in Melbourne, Australia. Whilst NCPA (the Applicant) had representatives personally attend the hearing, there were no appearances for the Commonwealth of Australia (the Respondent). In fact, after NCPA's application was served onto the Commonwealth of Australia, the ITNJ received correspondence on behalf of the Respondent stating that the Respondent did not recognise the ITNJ and as such, would not be participating in the matter. Notwithstanding, the ITNJ will continue to provide the Respondent with all relevant documents and orders, and the ITNJ still welcomes the Respondent to later file a defence and/or make an appearance.

The lack of any appearance on the part of the Respondent did not hinder the progress of the matter. In fact, the directions hearing was successful in confirming many details, including the remedies sought by the Applicant, as well as the issues surrounding evidence. Although in its application, NCPA sought a declaration that the Commonwealth of Australia (and its agents) were in breach of Articles 9 and 24 of the UNCRC, at the directions hearing, its representatives clarified that if after hearing all the evidence, the ITNJ determines that the Commonwealth of Australia is in breach of *any other* Article of the UNCRC, the NCPA would like a declaration to that effect. Also of particular importance was the Applicant's concern with the privacy of its witnesses, which includes children and mothers under court orders. It was crucial to NCPA that measures be taken to protect the security of witnesses, especially given the sensitive nature of the claims and the personal risks involved. Given this, the ITNJ confirmed that, taking into account individual circumstances, names and personal

information will be censored; names will be changed and witnesses will be given pseudonyms; and witnesses will be able to give viva voce evidence behind a screen, or via audio-only recording. Further, the representatives of NCPA participating in the case are to remain anonymous. The ITNJ is adding greater flexibility to the present matter to adequately protect the rights of not just the Applicant, but of all parties.

Following discussions, orders were made at the directions hearing, primarily requesting that NCPA provide the ITNJ and the Commonwealth of Australia all necessary information regarding evidence (both documentary, and viva voce evidence).

A trial date has not yet been set, because the ITNJ requires all orders to be satisfied first. Further, NCPA requested that the trial be listed no earlier than August 2016, as it required time to prepare its case. The trial will be conducted in person, and may be held in Melbourne or Sydney, depending on the relative convenience for all parties and witnesses.

Julie-Anne Pho
ITNJ Court Officer
14 February 2016