



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

MIHYAR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Isavella Maria Vasilogeorgi, AAS/ALD/OHR, UN Secretariat

Lucienne Pierre, AAS/ALD/OHR, UN Secretariat

Introduction

1. By application filed on 12 March 2021, the Applicant, a staff member of the United Nations Department of Safety and Security (“UNDSS”), contests the decision to impose on him the disciplinary measures of written censure and loss of two steps in grade.
2. On 15 April 2021, the Respondent filed his reply with two annexes filed on an *ex parte* basis:
 - a. Annex R-6, namely a sanction letter addressed to a former UN staff member; and
 - b. An explanation as to why Annex R-6 was submitted *ex parte* (hereafter, “Explanation Note”).
3. On 20 May 2021, the Applicant filed, on an *ex parte* basis, his comments on the Respondent’s reply with an annex, namely “Report no. 2225 dated 16 October 2020: Audit of UNDP Country Office in Malaysia”.

Consideration

Case management discussion

4. Having reviewed the submissions on record, the Tribunal deems it appropriate to invite the parties to a case management discussion (“CMD”) pursuant to art. 19 of its Rules of Procedure.
5. The purpose of the CMD is to:
 - a. Ascertain whether the parties are amenable to considering an alternative resolution to the dispute;
 - b. Identify the factual and legal issues to be determined;
 - c. Consider what further information, if any, is required;

- d. Consider if the case may be decided on the basis of the parties' written submissions or if a hearing should be held;
- e. Identify the relevant witnesses to be called and agree on dates for said hearing, if needed; and
- f. Discuss any other matter relevant to these proceedings.

Ex parte documents

6. Art. 18.4 of the Tribunal's Rules of Procedure provides that it "may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances". This provision requires that the evidence submitted be confidential in nature.

7. In relation to the Respondent's *ex parte* filings, the Tribunal considers that the "Explanation Note" may be relevant to the present case. To the extent that it was not previously available to the non-filing party, the Tribunal finds it appropriate to disclose it for the sake of fairness and transparency.

8. Considering that Annex R-6, a sanction letter addressed to a former UN staff member, is confidential in nature and that the "Explanation Note" provides similar information that may be relevant to the present case, the Tribunal finds it appropriate not to disclose Annex R-6. Therefore, the Tribunal decides that Annex R-6 shall remain *ex parte*.

9. With respect to the Applicant's *ex parte* filings, the Tribunal first considers that his comments on the Respondent's reply should not have been filed *ex parte*. Second, the Report on the Audit of UNDP Country Office in Malaysia is publicly available and should not have been filed *ex parte* either. The Tribunal's Registry will therefore change the confidentiality setting of these documents to "none" in the Tribunal's e-Filing system.

Conclusion

10. In view of the foregoing, it is ORDERED THAT:

- a. The parties shall attend a CMD on **Wednesday, 6 July 2022, at 2.30 p.m. (Geneva Time)**, which will be conducted virtually through Microsoft Teams;
- b. The parties provide the Geneva Registry with their contact details by **Wednesday, 29 June 2022 (COB Geneva time)**;
- c. By **Friday, 24 June 2022 (COB Geneva time)**, the Geneva Registry shall:
 - i. Lift the *ex parte* status of the Applicant's comments on the Respondent's reply and the annexed report therein; and
 - ii. Make the "Explanation Note" available to the non-filing party on an under seal basis; and
- d. The Applicant shall not disclose, use, show, convey, disseminate, copy, reproduce or in any way communicate without the Tribunal's prior authorization the "Explanation Note" shared with him, except for the filing of an appeal with the Appeals Tribunal.

(Signed)

Judge Teresa Bravo

Dated this 23rd day of June 2022

Entered in the Register on this 23rd day of June 2022

(Signed)

René M. Vargas M., Registrar, Geneva