



Before: Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

REILLY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Jérôme Blanchard, LPAS, UNOG

Introduction

1. By application filed on 17 July 2017, registered under Case No. UNDT/GVA/2017/052, the Applicant contested “[o]ngoing workplace harassment based on protected activity for reporting and objecting to wrongdoing by management” and the “[v]iolation of [her] privacy rights and defamation of character”.
2. By application filed on 11 September 2018, registered under Case No. UNDT/GVA/2018/099, the Applicant challenged “the procedure by which her request for protection from retaliation was processed, the failure to protect her from retaliation and the failure to follow up on Ethics Office recommendations subsequent to her request for protection from retaliation”.
3. On 24 June 2020, the Tribunal issued Judgment *Reilly* UNDT/2020/097 in Case No. UNDT/GVA/2018/099.
4. By Order No. 82 (GVA/2020) of 27 July 2020, the Tribunal ordered, *inter alia*, the parties to file closing submissions on specific points in Case No. UNDT/GVA/2017/052 by 27 August 2020.
5. On 29 July 2020, the Applicant appealed Judgment *Reilly* UNDT/2020/097 requesting *inter alia* that her matters be remanded to the UNDT for consideration by a Judge other than the undersigned.
6. On 9 August 2020, the Applicant filed a “Motion to submit further evidence, for access to all evidence on record, for disclosure of evidence by the Respondent, and for extension of time limit for closing submissions”.
7. By Order No. 88 (GVA/2020) of 19 August 2020, the Tribunal suspended proceedings in Case No. UNDT/GVA/2017/052 pending the outcome of the Applicant’s above-mentioned appeal.

8. On 21 May 2021, the Appeals Tribunal published Judgement *Reilly* 2021-UNAT-1079 affirming the above-mentioned UNDT judgment.

Consideration

9. In view of the foregoing, the Tribunal finds that proceedings in Case No. UNDT/GVA/2017/052 shall now resume.

10. Having re-examined the submissions and the evidence currently in the case file, in particular the parties' closing submissions during the hearing on the merits held in June 2019 and the Applicant's 3 July 2020 response to this Tribunal's Order No. 73 (GVA/2020), the Tribunal has determined that the issues to be adjudicated in the case at hand are whether:

- a. The Applicant's 20 July 2016 complaint against her FRO and SRO was properly investigated; and
- b. The 2 February 2017 press release "[violated the Applicant's] privacy rights and [defamed her] character".

11. In light of the definition of the issues above, the Tribunal finds that the case is fully informed and that it is not necessary to request further production of evidence or submissions from the parties for its final adjudication. Consequently, the Tribunal decides to proceed to the adjudication of the above issues on the papers before it, thus superseding para. 23.b. of its Order 82 (GVA/2020).

12. With respect to the Applicant's 9 August 2020 motion, the Tribunal notes that she *inter alia*:

- a. Requested leave to file, on an *ex parte* basis, the 27 July 2020 Memorandum of the Alternate Chair of the Ethics Panel of the United Nations ("EPUN Alternate Chair") on her request for review of the 25 October 2019 non prima facie determination made by the United Nations Ethics Office. The Applicant included the Memorandum as annex 1 to her motion;

b. Reiterated her 3 July 2020 request for disclosure of documents by the Respondent; and

c. Requested that the Tribunal inform both parties of any intention to rely on documents or evidence not filed in the present case and being granted access to all the evidence on record.

13. First, the Tribunal finds the Memorandum of the EPUN Alternate Chair irrelevant for the adjudication of the present case, for two main reasons:

a. It relates to another complaint for alleged harassment and retaliation made by the Applicant in 2019, whereas the facts of the current case refer to events that allegedly occurred between 2014 and 2016; and

b. As per the scope of judicial review referred to above (see para. 10.a above), the Tribunal will not assess the allegations of harassment and retaliation against the Applicant.

14. In light of the Tribunal's ruling concerning annex 1 to the Applicant's 9 August 2020 motion, said annex shall remain *ex parte*.

15. Second, on the Applicant's reiterated request for disclosure of documents, the Tribunal underlines that it already ruled on the question in its Order No. 82 (GVA/2020). More specifically, the Applicant is directed to para. 12 of that Order and to the Tribunal's determination in para. 10 above.

16. Finally, with respect to the Applicant's request for access to all the evidence on record and confirmation on whether the Tribunal intends "to rely on documents or evidence not filed in the present case", the Tribunal underlines that in the current proceedings "fair trial rights" have been fully observed and that both parties had the opportunity to comment on all relevant evidence that it will consider.

Conclusion

24. In view of the foregoing, IT IS ORDERED THAT in Case No. UNDT/GVA/2017/052:

- a. Pleadings are closed; and
- b. The Tribunal will proceed to adjudicate the matter and deliver its Judgment on the papers before it.

(Signed)

Judge Teresa Bravo

Dated this 14th day of June 2021

Entered in the Register on this 14th day of June 2021

(Signed)

René M. Vargas M., Registrar, Geneva