



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON CASE MANAGEMENT
AND NOTICE OF HEARING**

Counsel for Applicant:

Marcos Zunino, OSLA
Ana Giulia Stella, OSLA

Counsel for Respondent:

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

Introduction

1. By application filed on 3 August 2020, the Applicant, a staff member of the United Nations Office on Drugs and Crime (“UNODC”), contests the decision of the Administration to impose on him the disciplinary sanction of loss of five steps, and deferment, for two years, of eligibility for consideration for promotion, as well as the administrative measure of requiring him to take training to improve his gender awareness and managerial sensitivity towards handling harassment issues.
2. On 2 September 2020, the Respondent filed his reply.
3. By Order No. 171 (GVA/2021) of 18 November 2021, the Tribunal convoked the parties to a case management discussion (“CMD”).
4. The CMD took place, as scheduled, on 6 December 2021 with Counsel for each party and the Applicant present.

Consideration

The Applicant’s request to exceed page limit

5. As a preliminary matter, the Tribunal notes that the Applicant requested to exceed the page limit in his application given the factual complexity of the case and the number of alleged incidents. During the CMD, the Respondent’s Counsel did not object to the Applicant’s request. Noting the factual complexity of this disciplinary case, the Tribunal considers that additional facts and analysis in the application will facilitate its proceedings. Accordingly, the Tribunal grants the Applicant’s request pursuant to art. 19 of its Rules of Procedure.

Documentary evidence

6. When perusing the case file, the Tribunal finds that it appears that all relevant written documents have been submitted, which was confirmed by the parties during the CMD.

7. Noting that both parties filed some documentary evidence in Spanish, the Tribunal asked them during the CMD if there was a need to translate the Spanish version of the documentary evidence into English. In response, Counsel for the Applicant confirmed that they were fluent in Spanish whereas one Counsel for the Respondent said that she spoke Spanish. However, she indicated that she would further examine the documentary evidence in Spanish and would potentially revert as to whether a translation is needed.

8. The Tribunal thus instructed the Respondent's Counsel to file their views regarding whether translation is needed in relation to the documentary evidence in Spanish within 10 days from the date of the CMD.

Hearing

9. Having reviewed the parties' submissions on the record, the Tribunal notes that the parties dispute essential facts. Moreover, art. 16.2 of the Tribunal's Rules of Procedure provides that "[a] hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure". The Tribunal thus finds it appropriate, for the fair and expeditious disposal of this case, to hold a hearing on the merits. During the CMD, the parties agreed to the Tribunal's proposal that a hearing on the merits be conducted.

10. However, the parties could not reach an agreement regarding the specific dates of the hearing. Having considered the parties' submissions in this respect during the CMD, the Tribunal decides to hold the hearing from 24 January 2022 to 27 January 2022.

11. Moreover, art.17.1 of the Tribunal's Rules of Procedure permits parties to call witnesses to testify and allows for cross-examination. It also provides that the Tribunal may examine witnesses called by either party and may call any other witnesses it deems necessary. Accordingly, the Tribunal instructs the parties to file their lists of witnesses within ten days from the date of this Order.

12. In addition, for the purpose of the hearing, the parties shall prepare an agreed bundle of documents including any document to which they may refer to at the hearing.

13. Finally, under art. 9.3 of the Tribunal's Statute and art. 16.6 of the Tribunal's Rules of Procedure, the oral proceedings shall be held in public unless the Tribunal decides, at its own initiative or at the request of either party, that "exceptional circumstances require that the oral proceedings be closed". The Tribunal considers that oral proceedings involving sexual harassment claims, such as in the present case, constitute exceptional circumstances. Therefore, the Tribunal finds it necessary to have closed oral proceedings and hold the hearing *in camera*.

14. Given the nature of certain allegations at issue, the Tribunal also finds it necessary to order that the Applicant's name be anonymized for publication purposes of this Order.

15. In light of the foregoing,

IT IS ORDERED THAT:

16. The Applicant's request to exceed the application's page limit is granted.

17. By **Thursday, 16 December 2021**, the Respondent's Counsel shall file their views regarding whether translation is needed in relation to the documentary evidence in Spanish.

18. By **Friday, 17 December 2021**, the parties file their respective list of witnesses while ensuring the availability of their witnesses at the hearing.

19. By **Wednesday, 19 January 2022**, the parties submit an agreed bundle of documents that they intend to rely upon at the hearing.

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20. The parties attend a hearing on the merits via Microsoft Teams from **Monday, 24 January 2022** to **Wednesday, 26 January 2022**, with possible extension to **Thursday, 27 January 2022**, commencing each day at **2.30 pm (Geneva time)**.

(Signed)

Judge Teresa Bravo

Dated this 7th day of December 2021

Entered in the Register on this 7th day of December 2021

(Signed)

René M. Vargas M., Registrar, Geneva