



Before: Judge Eleanor Donaldson-Honeywell

Registry: Geneva

Registrar: René M. Vargas M.

EFRATI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Nicola Caon, DAS/ALD/OHR/UN Secretariat

Albert Angeles, DAS/ALD/OHR/UN Secretariat

Introduction

1. By application filed on 17 November 2023, the Applicant seeks an Order of the Tribunal for enforcement of a settlement agreement signed between her and the Organization on 14 August 2023 and 22 August 2023 respectively.
2. On 28 December 2023, the Respondent filed his reply.
3. By Order No. 18 (GVA/2024), the Tribunal instructed the Applicant to file a rejoinder, and encouraged the parties to explore alternative dispute resolution.
4. On 25 March 2024, the Applicant filed her rejoinder.
5. On 1 April 2024, the parties filed a joint submission informing the Tribunal that they were not able to reach an amicable settlement.

Consideration

Motion for disclosure of evidence

6. In her application, the Applicant requested disclosure of “any and all communications between UNOV and ALD regarding the implementation of her modified sanction”. According to her, this evidence “will demonstrate that the Administration was initially unsure how to implement the sanction and that the matter was escalated to the ALD due to a lack of clarity”.
7. Furthermore, the Applicant claims that this evidence would also demonstrate that the modified disciplinary sanction agreed on by the parties was ambiguous with respect to its implementation. Such ambiguity, she claims, should have been resolved in her favour as demands the principle of *contra proferentem*.
8. The Tribunal, however, is not persuaded by the Applicant’s argument. If any ambiguity indeed exists (with respect to the implementation of the agreed sanction), the Tribunal is satisfied that it can decide on it based on the evidence on record, namely, the settlement agreement and the applicable legal framework.

9. In fact, the Tribunal finds that interoffice communication on how to implement a disciplinary sanction is not probative of any unlawfulness. Further, the Applicant never identified the specific communication that could demonstrate the alleged ambiguity. It follows that the granting of the Applicant's motion would amount to a fishing expedition, which the Tribunal will not allow.

10. Accordingly, the Applicant's motion for disclosure of evidence is denied.

Closing submissions

11. Having reviewed the evidence on record and the parties' submissions to date, the Tribunal considers itself sufficiently informed to render its judgment without the need for additional disclosure of evidence or the holding of a hearing on the merits.

12. Pursuant to art. 19 of the Tribunal's Rules of Procedure, and for the fair disposal of the case, the parties will be instructed to file their respective closing submission. Upon the filing of closing submissions, the Tribunal will move forward with adjudicating the case.

Conclusion

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

- a. The Applicant's request for disclosure of evidence is rejected; and
- b. The parties shall file their respective closing submission by **Wednesday, 9 October 2024**, which shall exclusively refer to the evidence already on file.

(Signed)

Judge Eleanor Donaldson-Honeywell
Dated this 25th day of September 2024

Case No. UNDT/GVA/2023/061

Order No. 117 (GVA/2024)

Entered in the Register on this 25th day of September 2024

(Signed)

René M. Vargas M., Registrar, Geneva