



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/028

Order No.: 83 (NY/2021)

Date: 7 September 2021

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

GAKIRA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON REQUEST FOR
CONFIDENTIALITY**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Cynthia Cline, ECA

Introduction

1. On 6 April 2020, the Applicant, a staff member of the Economic Commission for Africa (“ECA”), appealed the Management Evaluation Unit’s “evaluation regarding [his] complaint against ECA for harassment and abuse of power”.

2. The case was originally filed in the Nairobi Registry.

3. On 29 May 2020, the Respondent responded that the application is without merit.

4. By Order No. 87 (NBI/2021) dated 22 April 2021, the Tribunal ordered the Respondent’s reply and other documents to be translated into French and afforded the Applicant the opportunity to submit a rejoinder thereafter.

5. On 3 May 2021, the Respondent requested that annexes 6 and 7 to the reply be maintained *ex parte* and not disclosed to the Applicant.

6. By email from the Nairobi Registry of 6 May 2021, the Tribunal stated that “a ruling will be made on the Applicant’s request to access annexes 6 and 7 once the translations have been completed and the proceedings re-instituted”.

7. On 19 July 2021, the case was transferred to the New York Registry and assigned to the undersigned Judge on 11 August 2021.

Consideration.

8. Having reviewed the case file, the Tribunal deems it appropriate, to ensure the expeditious management of this case, to rule on the request for confidentiality of annexes 6 and 7 before receiving their translation.

9. The Respondent notes in this respect that annex 6 is ECA's referral of the Applicant's complaint of harassment to the Office of Internal Oversight Services ("OIOS").

10. He states that this document contains "hearsay, unverified and unsubstantiated confidential allegations regarding other staff" that lack any probative value. To protect the right to privacy of staff of the United Nations, the Respondent states that he is "not waiving the privacy and confidentiality of this submission that was sent to OIOS since it involves other staff".

11. Having reviewed annex 6, the Tribunal notes that it contains the ECA's evaluation of the Applicant's own complaint of misconduct and provides OIOS with further information as to the actions taken by the ECA in connection with the complaint.

12. Therefore, this document does not contain any information not already known by the Applicant.

13. Moreover, the Tribunal notes that this document may be relevant to the determination of this case as it pertains to the chain of events that resulted in the contested decision. Therefore, the Applicant has a right to access it.

14. Therefore, annex 6 shall be disclosed to the Applicant.

15. With respect to annex 7, the Respondent avers that this document is OIOS response to ECA's Executive Secretary regarding the Applicant's complaint of harassment.

16. According to the Respondent, this document "also mentions other staff who are entitled privacy and confidentiality and it contains unverified, unsubstantiated allegations that have no probative value in the outcome of these proceedings" and requests that it be maintained *ex parte* to protect the privacy rights of other staff members.

17. Alternatively, the Respondent requests is requesting the Tribunal “to conduct an *in-camera* review and redact those portions that pertain to other staff members as well as redact the unfounded unverified allegations contained therein that offer no probative value to the outcome of these proceedings”.

18. The Tribunal notes that annex 7 is indeed a memorandum from OIOS to the Executive Secretary referring to the ECA’s transmittal of the Applicant’s complaint.

19. In this memorandum, OIOS summarizes the allegations contained in the Applicant’s own original complaint. OIOS also lists the case numbers of previous reports of harassment filed by both the Applicant and the staff member against whom he complained.

20. OIOS further refers the matter back to the ECA for appropriate action.

21. Contrary to the Respondent’s assertions, the Tribunal does not find in this document any information pertaining to other staff members other than that provided in the Applicant’s own complaint. Therefore, transmission of this document to the Applicant would not reveal to him any information not already in his possession.

22. Moreover, the Tribunal notes that this document may be relevant to the determination of this case as it pertains to the chain of events that resulted in the contested decision. Therefore, the Applicant has a right to access it.

23. For the same reasons, the Tribunal does not deem it appropriate to allow any redactions of this document.

24. In light thereof,

IT IS ORDERED THAT:

25. The Respondent’s request for confidentiality is denied;

26. Annexes 6 and 7 to the reply shall be disclosed to the Applicant and translated into French.

(Signed)

Judge Joelle Adda

Dated this 7th day of September 2021