



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

DUPARC

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicants:

Robbie Leighton, OSLA

Counsel for Respondent:

Jérôme Blanchard, LPAS, UNOG

Introduction

1. By application filed on 22 July 2019 through his Counsel from the Office of Staff Legal Assistance (“OSLA”), the Applicant, a staff member of the Security and Safety Service (“SSS”), United Nations Office at Geneva (“UNOG”), contests the decision of the then Director-General, UNOG, to take no further action on his complaint under ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) against the Chief, SSS, UNOG.

2. The application was served on the Respondent who submitted his reply on 19 August 2019 with annexes 3 and 5 filed on an *ex parte* basis.

Consideration

Ex parte documents

3. In his application, the Applicant requests disclosure of the investigation report related to his above-mentioned complaint together with all evidence gathered by the investigators. The Respondent annexed the report in question (written in English) to his reply as annex 3 (*ex parte*). Annex 5, also *ex parte*, is the decision of the then Director-General, UNOG; on the Applicant’s complaint communicated to the Chief, SSS, UNOG.

4. Article 18.4 of the Dispute Tribunal’s Rules of Procedure provides it with the power to “impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances”.

5. Regarding the right to confidentiality of evidence, the Appeals Tribunal ruled on confidentiality principles in *Bertucci* 2011-UNAT-121 (see paras. 46 to 51). Guided by them as well as by the principle of equality of arms, the Tribunal, having reviewed the annexes filed *ex parte*, concludes that they are relevant for the Applicant’s case. To the extent that these documents were not previously available to the Applicant, the Tribunal finds it appropriate to disclose them.

6. Considering that the aforementioned documents contain information concerning third persons and/or are internal confidential communications, the Tribunal will instruct the Respondent to redact them to protect all information concerning individuals other than the Applicant and to refile them on an under seal basis.

7. Noting that in a pending case before the Tribunal similar to the present one, the Applicant's OSLA Counsel requested that an investigation report be translated from English to French to ensure the Applicant's effective representation, as the latter is francophone, the above-mentioned redacted version of the investigation report will be translated and said translation will be shared with the Applicant on an under seal basis.

8. Upon receipt of the translation of the redacted version of the investigation report, the Geneva Registry will make it available to the Applicant, who will be given an opportunity to submit a rejoinder.

Conclusion

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

a. The Respondent shall redact annexes 3 and 5 to his reply and refile the redacted documents on an under seal basis by **Monday, 26 April 2021**;

b. Subsequent to the Respondent's filing, the Geneva Registry of the Tribunal shall:

i. Share with the Applicant, on an under seal basis, the redacted version of annex 5; and

ii. Request the translation of the redacted version of annex 3 (investigation report) from English to French.

c. Upon receipt of the above-mentioned translation, the Geneva Registry of the Tribunal shall give access to it to the Applicant, also on an under seal basis; and

d. The Applicant shall **file his rejoinder within 10 days** of receipt of the translated document.

10. The Applicant and/or his OSLA Counsel shall not disclose, use, show, convey, disseminate, copy, reproduce or in any way communicate without the Tribunal's prior authorization the redacted annexes to the Respondent's reply shared with them, except for the filing of an appeal with the Appeals Tribunal.

(Signed)

Judge Teresa Bravo

Dated this 19th day of April 2021

Entered in the Register on this 19th day of April 2021

(Signed)

René M. Vargas M., Registrar, Geneva