



**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Geneva

**Registrar:** René M. Vargas M.

MURATORE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON  
CASE MANAGEMENT**

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**Counsel for Applicant:**

Robbie Leighton, OSLA

**Counsel for Respondent:**

Kong Leong Toh, UNOPS

## **Introduction**

1. On 1 April 2021, the Applicant, a former staff member of the United Nations Office for Project Services (“UNOPS”), filed an application contesting the decision not to renew his fixed-term appointment beyond 31 December 2020 and a motion to seek leave to exceed page limit.
2. On 7 April 2021, the Tribunal notified the parties of its decision to grant the Applicant’s motion and accept the application as filed. The application was then served on the Respondent.
3. On 7 May 2021, the Respondent filed his reply.
4. On 26 April 2022, the present case was assigned to the undersigned Judge.
5. By Order No. 57 (GVA/2022) of 6 May 2022, the Tribunal instructed the parties to file their closing submissions, which they did on 25 May 2022.
6. On 2 June 2022, the Respondent filed a motion for the Tribunal’s directions regarding several issues.
7. On 9 June 2022, the Applicant filed his comments on the Respondent’s motion for the Tribunal’s directions.

## **Consideration**

8. In his motion, the Respondent seeks the Tribunal’s directions regarding:
  - a. Whether it wishes him to file submissions regarding new issues raised in the Applicant’s closing submissions;
  - b. Whether it wishes to stay the present case until the completion of the investigation/disciplinary proceedings; and
  - c. Any other issue that the Tribunal considers relevant.

9. In support of his motion, the Respondent submits that the Applicant's closing submission relies on arguments and evidence that were not previously presented before the Tribunal. Specifically, the Respondent refers to paragraphs 31 to 33 of the Applicant's closing submission where the Applicant *inter alia* alleges that recent developments at UNOPS indicate that no reliance may be placed on its oversight functions.

10. On 9 June 2022, in response to the Respondent's motion of 2 June 2022, the Applicant filed his comments in which he requested/advised the Tribunal to:

- a. Admit the new information submitted by him on grounds of compelling circumstances;
- b. Offer the Respondent an opportunity to respond to the new evidence;
- c. Stay the proceedings pending the outcome of the current investigations into UNOPS oversight shortcomings; and
- d. Order the Respondent to disclose documentation relevant to the recent revelations regarding UNOPS central oversight shortcomings.

11. Having reviewed the parties' submissions to date, the Tribunal finds that the investigation that UNOPS is currently subject to and the documentation referred to by the Applicant are not relevant to the present case and, thus, it is not necessary to stay the current proceedings pending the outcome of said investigations or to order the Respondent to disclose the documentation referred to in para. 10. d. above.

12. The Tribunal will address the remaining issues in turn.

*New arguments and evidence in the Applicant's closing submissions*

13. In the present case, the Applicant raised new arguments and evidence in his closing submissions.

14. The Tribunal acknowledges that, in general, the parties shall file their closing submissions based solely on the submissions and evidence already before it (see, e.g., *Survo* 2015-UNAT-595, para. 58). However, exceptional circumstances such as new issues emerging around the time of the closing submission, as in the Applicant's case, may justify the inclusion of new issues in the closing submission.

15. Moreover, the Tribunal recalls that pursuant to art. 18.1 of its Rules of Procedure, it shall determine the admissibility of any evidence and, under art. 18.2, it may order the production of evidence for either party *at any time* (Emphasis added).

16. Accordingly, the Tribunal finds it appropriate to admit the new arguments and evidence in the Applicant's closing submission.

*The Respondent's right to comment on the new arguments and evidence*

17. Having admitted the Applicant's new arguments and evidence in his closing submission, the Tribunal finds it appropriate and in the interest of justice to grant the Respondent an opportunity to comment on the new issues raised in the Applicant's closing submission.

**Conclusion**

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

- a. The new arguments and evidence in the Applicant's closing submission be admitted into the record;
- b. The Respondent file his comment on the above-mentioned new arguments and evidence by **Thursday, 16 June 2022**; and
- c. All other requests are denied.

*(Signed)*

Judge Alexander W. Hunter, Jr.

Dated this 10<sup>th</sup> day of June 2022

Case No. UNDT/GVA/2021/022

Order No. 064 (GVA/2022)

Entered in the Register on this 10<sup>th</sup> day of June 2022

*(Signed)*

René M. Vargas M., Registrar, Geneva