



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Ron Mponda

Counsel for Respondent:

Sandra Lando, UNHCR

Chenayi Mutuma, UNHCR

Introduction

1. By an incomplete application filed on 9 July 2021, the Applicant, a staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), contests the decision to impose on him the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity for alleged sexual harassment.
2. Upon its completion, the application was served on 13 July 2021 on the Respondent who had until 12 August 2021 to file his reply.
3. On 11 August 2021, the Respondent filed a motion for leave to exceed the page-limit suggested in the Tribunal’s Practice Direction No. 4.
4. On the same day, the Respondent filed his reply.
5. On 21 August 2021, the Applicant filed a rejoinder to the Respondent’s reply, in which he, *inter alia*, objects to the Respondent’s motion for leave to exceed the page-limit.

Consideration

Respondent’s motion to exceed page limit

6. The Respondent requests leave to exceed the page-limit suggested in the Tribunal’s Practice Direction No. 4. In support of his request, the Respondent submits that given the scope of the application, he is obliged to address the facts and analysis that correspond to the four areas of scope of judicial review in the disciplinary matter at issue, and that the additional facts and analysis would assist the Tribunal to address the issues efficiently and effectively in the present case.
7. The Applicant objects to the Respondent’s motion, arguing that the elongated reply does not in fact add anything of evidentiary value and, consequently, leaves it to the Tribunal to allow the departure from the stipulated page-limit.

8. The Tribunal notes that under para. 19 of its Practice Direction No. 4, “[t]he reply should not exceed 10 pages, font Times New Roman, font size 12, line spacing of 1.5 lines”. Nevertheless, para. 2 of Practice Direction No. 4 makes it clear that this Practice Direction is “subject to any direction given by a Judge in a particular case”.

9. Having reviewed the reply, which is 12 pages long, the Tribunal notes that it involves a large set of facts and addresses various issues in the application that the Respondent disputes. Thus, it would not be in the interests of justice to be overly formalistic in this matter. Consequently, pursuant to art. 19 of its Rules of Procedure, the Tribunal will grant the Respondent’s motion.

The Applicant’s rejoinder

10. Having reviewed the rejoinder, the Tribunal notes that the Applicant sought to rebut the Respondent’s arguments laid out in the reply.

11. To further clarify the issues before it and to do justice to the parties, the Tribunal finds it appropriate to give the Respondent an opportunity to comment on the Applicant’s rejoinder.

Anonymity

12. The Tribunal notes that art. 11.6 of its Statute states that “[t]he judgements of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal.”

13. It is well-settled law that “the names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and accountability, and personal embarrassment and discomfort are not sufficient grounds to grant confidentiality” (see *Buff* 2016-UNAT-639, para. 21). Therefore, any deviation from the principles of transparency and accountability can only be granted if there are exceptional circumstances (see *Buff*).

14. The Tribunal considers that the fact that the victim may be easily identified by the factual circumstances surrounding the case, and the sensitive nature of the allegations regarding sexual harassment constitute exceptional circumstances that warrant granting anonymity. Accordingly, the Tribunal finds it appropriate to anonymize the Applicant's name in the Tribunal's Orders.

15. Pursuant to art. 19 of the Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

16. The Respondent's motion to exceed the page-limit is granted. Consequently, his 12-page reply is admitted into the case record;

17. The Applicant's rejoinder is admitted into the case record;

18. By **Friday, 28 October 2022**, the Respondent shall file his comments, if any, on the Applicant's rejoinder; and

19. The Applicant's name be anonymized in the Tribunal's Orders.

(Signed)

Judge Teresa Bravo

Dated this 20th day of October 2022

Entered in the Register on this 20th day of October 2022

(Signed)

René M. Vargas M., Registrar, Geneva