



**Before:** Judge Teresa Bravo

**Registry:** Geneva

**Registrar:** René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON  
CASE MANAGEMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Sandra Lando, UNHCR

Marisa MacLennan, UNHCR

## **Introduction**

1. By Order No. 88 (GVA/2022) of 5 October 2022, the Tribunal found it appropriate, for the fair and expeditious disposal of this case, to hold a hearing on the merits, and instructed the parties to call Dr. A. F. R. and Dr. L. H. to testify in the present case.
2. On 17 October 2022, the Respondent filed a motion seeking a “waiver of confidentiality of [the] Applicant’s medical file”.
3. On 18 October 2022, the Tribunal instructed the Applicant to file his comments on the Respondent’s motion, if any, by 20 October 2022.
4. On 20 October 2022, the Applicant filed his comments on the Respondent’s motion, and submitted additional medical reports from Dr. L. H. on an under seal basis.

## **Consideration**

### *Respondent’s motion for a waiver of confidentiality of the Applicant’s medical file*

5. Through his motion, the Respondent seeks access to the Applicant’s three additional medical reports from Dr. L. H., dated 7 September 2018, 19 October 2018, and 16 November 2018, currently in possession of the Medical Section, in order to produce them in the current proceedings.
6. In support of his motion, the Respondent submits that these reports would complement the medical report already on file, dated 25 August 2018, and provide the Tribunal with a more complete picture of the Applicant’s mental health at a closer time to some of the misconduct. He also advances that they are necessary for the fairness and efficiency of the hearing and disposition of the case, as they will allow all parties to have access to the same information and to diligently prepare for the hearing.
7. In his submissions dated 20 October 2022, the Applicant provided his waiver of confidentiality in relation to the three additional medical reports mentioned in para. 5 above.

8. Noting the Applicant's consent to waive the confidentiality of the medical reports at issue and that they concern the nature and treatment of the Applicant's medical condition at the relevant time, the Tribunal finds it in the interest of justice to grant the Respondent's motion pursuant to art. 19 of its Rules of Procedure.

9. Given that the above-mentioned medical reports contain sensitive information, the Tribunal finds it appropriate to direct the Respondent to file them on an under seal basis.

*The Applicant's submission of additional evidence*

10. In his submission dated 20 October 2022, the Applicant filed eight additional medical reports from Dr. L. H. issued from 10 August 2018 to 15 February 2019.

11. In this respect, 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. 18.5, it may exclude evidence it considers irrelevant, frivolous or lacking probative value.

12. Having reviewed the documents that the Applicant seeks to include in the record, the Tribunal finds that there are no grounds to exclude them and will admit them into the case record. However, the Tribunal will decide during its deliberation what weight to attach to each document.

**Conclusion**

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

- a. The Respondent's motion to seek a waiver of the confidentiality of the Applicant's medical file is granted;
- b. The Respondent shall file the Applicant's additional medical reports listed in para. 5 above on an under seal basis by **Monday, 24 October 2022**; and

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- c. The additional medical reports filed by the Applicant mentioned in para. 10 above shall be part of the case record.

*(Signed)*

Judge Teresa Bravo

Dated this 21<sup>st</sup> day of October 2022

Entered in the Register on this 21<sup>st</sup> day of October 2022

*(Signed)*

René M. Vargas M., Registrar, Geneva