



**Before:** Judge Teresa Bravo

**Registry:** Geneva

**Registrar:** René M. Vargas M.

PIAZZI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON CASE MANAGEMENT  
AND NOTICE OF HEARING**

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**Counsel for Applicant:**

Ana Giulia Stella, OSLA

**Counsel for Respondent:**

Bettina Gerber, LPAS, UNOG

## **Introduction**

1. On 14 June 2021, the Applicant, a former staff member of the United Nations Office for the Coordination of Humanitarian Affairs, filed an application with the Tribunal contesting the decision to separate him unilaterally due to retirement.
2. In his application, the Applicant requested permission to exceed the page limit referred to in the Tribunal's Practice Direction No. 4 on grounds of the factual complexity of the case.
3. On 15 June 2021, the application was transmitted to the Respondent who was instructed to file his reply by 15 July 2021.
4. On 30 June 2021, the Respondent filed a motion seeking an extension of time to file his reply until 23 July 2021.
5. By Order No. 123 (GVA/2021) of 1 July 2021, the Tribunal granted the Respondent's motion.
6. On 23 July 2021, the Respondent filed his reply. In his reply, he did not object to the Applicant's request to exceed the page limit but similarly requested permission to exceed it on grounds of the factual complexity of the case and the Applicant's misrepresentation of facts.
7. On 4 October 2021, the Applicant filed a motion requesting permission to adduce additional documents in support of his application and respond to certain portions of the reply. At the same time, he submitted his rejoinder to the reply.
8. By Order No. 104 (GVA/2022) of 7 November 2022, the Tribunal ordered that:
  - a. The parties' requests to exceed the page limit be granted;
  - b. The Applicant's motion to adduce additional evidence be granted,

- c. The Applicant's request for leave to respond to certain portions of the reply be granted; and
  - d. The Respondent may file his comments on the Applicant's rejoinder.
9. By Order No. 108 (GVA/2022) of 14 November 2022, the Tribunal convoked the parties to a case management discussion ("CMD").
10. On 17 November 2022, the Respondent filed his comments on the Applicant's rejoinder.
11. On 21 November 2022, the CMD took place virtually through Microsoft Teams with Counsel for each party and the Applicant present.
12. On 22 November 2022, the Applicant filed a motion for confidentiality.

### **Consideration**

#### *The Applicant's oral motion to produce evidence*

13. During the CMD, the Applicant requested the Tribunal to order the Respondent to produce documentary evidence showing his desire to retire at the age of 65, namely the 2018 email exchanges between the Administration and the Applicant seeking to invite him to participate in training seminars on retirement. In support of his request, the Applicant argues that following his separation from service, he no longer has access to his United Nations email account.
14. The Respondent objected to the Applicant's request and submitted that the 2018 email exchanges were not relevant because he requested the Administration to process his retirement on 12 March 2020.
15. Noting that the Administration's internal email exchange dated 16 March 2020 shows that it was not clear to whom the Applicant should formally write to announce his retirement, the Tribunal is not yet in a position to make a determination on the relevance of the 2018 email exchanges.

16. Considering the circumstances invoked by the Applicant, the Tribunal finds it appropriate to direct the Respondent to check with the Information and Communication Technology Service, United Nations Office at Geneva, whether it is possible to give the Applicant access to his United Nations email inbox for the purpose of the present proceedings within five working days of the issuance of the present Order. Should the Applicant be granted access to his United Nations email inbox, he shall file the 2018 email exchanges.

17. Otherwise, the Respondent shall produce the above-mentioned documentary evidence. For the purpose of efficiency, to the fullest extent possible, the Applicant is required to provide the Respondent with specific details in relation to this evidence such as the exact date of the email and to whom the email was sent.

#### *Hearing*

18. Having reviewed the parties' submissions on the record, the Tribunal notes that the major facts at issue are highly contentious. Furthermore, art. 16.1 of the Tribunal's Rules of Procedure provides that "[t]he judge hearing a case may hold oral hearings." The Tribunal thus finds it appropriate, for the fair and expeditious disposal of this case, to hold a hearing on the merits.

19. During the CMD, the parties agreed to the Tribunal's proposal that a hearing on the merits be conducted. Having consulted with the parties, the Tribunal decided to hold a hearing on 12 December 2022, subject to the witnesses' availability.

20. Moreover, art.17.1 of the Tribunal's Rules of Procedure permits parties to call witnesses to testify and allows for cross-examination. It also provides that the Tribunal may examine witnesses called by either party and may call any other witnesses it deems necessary. Accordingly, the Tribunal instructs the parties to file their lists of witnesses within five working days from the date of this Order and indicate the issues on which the proposed witnesses will testify.

#### *The Applicant's motion for confidentiality*

21. The Applicant requests that the coming hearing be closed to the public. To support his request, the Applicant submits that he will raise detailed information of

confidential nature regarding the political and administrative nature of his assignments during his reimbursable loan to the Parliamentary Assembly for the Mediterranean (“PAM”).

22. Having reviewed the Applicant’s motion, the Tribunal considers it necessary to afford the Respondent the opportunity to respond to it. Accordingly, the Tribunal requests the Respondent to express his views in relation to the Applicant’s motion for confidentiality.

### **Conclusion**

23. In light of the foregoing, it is **ORDERED THAT**:

- a. By **Monday, 28 November 2022**, the Respondent file his comments on the Applicant’s motion for confidentiality;
- b. The Applicant’s oral motion to produce evidence be granted;
- c. By **Wednesday, 30 November 2022**, the Respondent inform the Tribunal whether it is possible to grant the Applicant access to his United Nations email inbox;
- d. Should the Applicant be granted access to his United Nations email inbox, the Applicant and his OSLA Counsel shall not disclose, use, show, convey, disseminate, copy, reproduce or in any way communicate without the Tribunal’s prior authorization the information contained therein, except for the purpose of the present proceedings and the filing of an appeal with the Appeals Tribunal;
- e. By **Wednesday, 30 November 2022**, the parties file their respective list of witnesses indicating the availability of their witnesses at the hearing;
- f. By **Friday, 2 December 2022**, the parties file the documentary evidence pursuant to paras. 16 and 17 above; and

g. Subject to witnesses' availability, the parties attend a hearing on the merits via Microsoft Teams on **Monday, 12 December 2022**, commencing at **9.30 a.m. (Geneva time)**.

*(Signed)*

Judge Teresa Bravo

Dated this 23<sup>rd</sup> day of November 2022

Entered in the Register on this 23<sup>rd</sup> day of November 2022

*(Signed)*

René M. Vargas M., Registrar, Geneva