



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

PIAZZI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON
CASE MANAGEMENT**

Counsel for Applicant:

Ana Giulia Stella, OSLA

Counsel for Respondent:

Bettina Gerber, LPAS, UNOG

Introduction

1. By Order No. 108 (GVA/2022) of 14 November 2022, the Tribunal convoked the parties to a case management discussion (“CMD”).
2. On 21 November 2022, the CMD took place virtually through Microsoft Teams with Counsel for each party and the Applicant present. During the CMD, after hearing the parties’ views, the Tribunal decided to hold a hearing on the merits.
3. On 22 November 2022, the Applicant filed a motion for confidentiality, requesting that the hearing be closed to the public.
4. By Order No. 112 (GVA/2022) of 23 November 2022, the Tribunal instructed the Respondent, *inter alia*, to file his comments on the Applicant’s motion for confidentiality by 28 November 2022, and inform it whether it is possible to grant the Applicant access to his United Nations electronic mailbox (“UN mailbox”) by 30 November 2022.
5. On 28 November 2022, the Respondent filed his response to the Applicant’s motion for confidentiality.
6. By email dated 28 November 2022, the Respondent informed the Tribunal about his position in relation to the Applicant’s access to his former UN mailbox.

Consideration

Access to the Applicant’s former UN mailbox

7. In his email dated 28 November 2022, the Respondent informed the Tribunal that the Applicant’s mailbox could still be accessed and that the resulting file could only be shared with an active United Nations staff member.
8. Having considered the circumstances of the case, the Tribunal finds it appropriate and in the interest of justice to grant access to the abovementioned file to the Applicant’s Counsel and to the Tribunal’s Geneva Registrar. As such, the Tribunal’s requested reply in this respect by 30 November 2022 in its Order No. 112 (GVA/2022) becomes moot.

Production of documentary evidence

9. When perusing the case file, the Tribunal found that some relevant information is missing, which was confirmed by the parties during the CMD.

10. The Tribunal recalls that art. 9.1 of its Statute provides that it “may order production of documents or such other evidence as it deems necessary”. Furthermore, art. 18.2 of the Tribunal’s Rules of Procedure stipulates that:

The Dispute Tribunal may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings.

11. In the present case, the evidence on record shows that on 12 March 2020, the Applicant sent an email to a Human Resources Business Partner (“HRBP”), Office for the Coordination of Humanitarian Affairs (“OCHA”), requesting assistance in order to, *inter alia*, “process [as soon as possible his] retirement request for personal reasons”. On 16 March 2020, the HRBP, OCHA, forwarded the abovementioned email to the Chief, Human Resources Section (“HRS”), OCHA, to seek advice regarding “to whom [the Applicant] should formally write to announce his retirement”. To be fully informed in this respect, the Tribunal orders the Respondent to produce the following documentary evidence:

- a. The Chief, HRS, OCHA’s response, if any, to the email dated 16 March 2020; and
- b. The Administration’s response, if any, to the Applicant’s email dated 12 March 2022 concerning his separation.

12. Considering its finding in para. 8 above, the Tribunal further invites the Applicant to submit any relevant documentary evidence other than that already on file together with the 2018 email exchanges, which shall be filed pursuant to Order No. 112 (GVA/2022).

The Applicant's motion for confidentiality

13. 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").

14. The Respondent opposes the Applicant's motion. He specifically argues that the Applicant failed to establish that there are exceptional circumstances that would warrant that the hearing be closed to the public, and that the Applicant's proposed topics of testimony are irrelevant to the matters at issue.

15. In this respect, the Tribunal recalls that under art. 9.3 of its Statute and art. 16.6 of its Rules of Procedure, the oral proceedings shall be held in public unless the Tribunal decides, at its own initiative or at the request of either party, that "exceptional circumstances require that the oral proceedings be closed".

16. Considering the scope of the hearing as defined at the CMD, the Tribunal fails to see the relevance of the alleged political and administrative nature of the Applicant's assignments during his reimbursable loan to PAM. As such, the Applicant did not demonstrate any exceptional circumstances that would warrant departing from the principles of transparency and accountability (see *Buff* 2016-UNAT-639, para. 23).

17. Accordingly, the Tribunal decides to reject the Applicant's motion for confidentiality. Consequently, the hearing will be held in public.

Conclusion

18. In light of the foregoing, IT IS ORDERED THAT:

- a. By **Wednesday, 30 November 2022, COB (GVA time)**, both the Registrar and the Applicant's Counsel be granted access to the Applicant's UN mailbox;

- b. The Registrar and the Applicant's 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;
- c. By **Tuesday, 6 December 2022, COB (GVA time)**, the parties file the documentary evidence pursuant to paras. 11 and 12 above; and
- d. The Applicant's motion for confidentiality be denied.

(Signed)

Judge Teresa Bravo

Dated this 29th day of November 2022

Entered in the Register on this 29th day of November 2022

(Signed)

René M. Vargas M., Registrar, Geneva