



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

SOOBRAYAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Alister Cumming, UNICEF

Introduction

1. On 14 February 2022, the Applicant, who is self-represented and a former Regional Adviser, Education, Europe and Central Asia Regional Office (“ECARO”), United Nations Children’s Fund (“UNICEF”), filed an application contesting the decision of the Deputy Executive Director, UNICEF, to impose on him the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.
2. On 25 February 2022, the Tribunal served the application on the Respondent.
3. On 4 March 2022, the Respondent filed a motion seeking an Order to have the Applicant refile his application in compliance with the page limit set forth in section 6 of Practice Direction No. 4 (Filing of Applications and Replies). In the alternative, the Respondent requested leave to file a reply exceeding the page limit.
4. By Order No. 32 (GVA/2022) of 4 March 2022, the Tribunal partially granted the Respondent’s motion to allow a reply exceeding the page limit up to a maximum of 30 pages excluding the annexes to the reply, if any.
5. On 28 March 2022, the Respondent filed his reply.
6. On 1 February 2023, the instant case was assigned to the undersigned Judge.
7. By Order No. 7 (GVA/2023) of 13 February 2023, the Tribunal called the parties to a case management discussion (“CMD”), which took place on 22 February 2023.
8. By Order No. 11 (GVA/2023) of 23 February 2023, the Tribunal instructed the parties to identify in writing whether an oral hearing was needed and, if so, to provide a list of potential witnesses, explaining the relevance of each testimony for the determination of the issues in dispute. In addition, the Tribunal instructed the Respondent to provide written submissions on the issue of the alleged retaliatory motive behind V01’s complaint, explaining, particularly, how said allegation was treated by the investigation.

9. On 6 March 2023, the parties filed their submissions in response to Order No. 11 (GVA/2023).

Consideration

Hearing on the merits

10. In their respective submissions of 6 March 2023, the Respondent did not identify a need for a hearing on the merits while the Applicant called for the testimony of the following witnesses:

- a. V01;
- b. Ms. G. K., Child Protection Specialist, ECARO, UNICEF;
- c. Mr. M. C., Global Programme Manager, UNICEF;
- d. Ms. S. F., former Education Consultant, ECARO, UNICEF;
- e. Ms. C. S., former Education Consultant, ECARO, UNICEF;
- f. Two Investigation Officers, OIAI, UNICEF; and
- g. Ms. H. S., Deputy Executive Director, Management, UNICEF.

11. Having reviewed the parties' submissions to date, the Tribunal notes that the parties dispute essential facts, particularly in relation to the standard of evidence and the Applicant's allegations that V01's complaint was motivated by retaliatory reasons.

12. Art. 16.2 of the Tribunal's Rules of Procedure provides that "[a] hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure". Art. 17.1 provides that "[t]he parties may call witnesses and experts to testify. The opposing party may cross-examine witnesses and experts. The Dispute Tribunal may examine witnesses and experts called by either party and may call any other witnesses or experts it deems necessary. The Dispute Tribunal may make an order requiring the presence of any person or the production of any document".

13. In view of the foregoing, the Tribunal finds it appropriate, for a fair and expeditious disposal of the case, to hold a hearing on the merits limited in scope to identify, clarify, and examine the evidence on how the Applicant's aforementioned allegations were investigated and/or considered.

14. In this regard, the Tribunal assessed the relevance of the testimonies to be provided by the Applicant's proposed witnesses, and decides to hear only the witnesses who are able to testify on the matter above, reserving the right to later call V01 and/or other witnesses to testify on the disputed facts, if it deems it necessary, as follows:

- a. The two Investigation Officers, OIAI, UNICEF, referenced in para. 10.f above; and
- b. An OIAI Quality Assurance Specialist, UNICEF.

Tentative schedule

15. Both parties confirmed their availability to attend a hearing between 3 and 6 April 2023, and the Respondent confirmed the availability of the proposed witnesses.

16. Based on this information, the tentative schedule of the hearing, which may be subject to change, is as follows:

Tuesday, 4 April 2023

2.30 p.m.	Parties' opening statements
3 p.m.	Investigation Officer. Examination-in-Chief by the Applicant, who is self-represented, and cross-examination by the Respondent's Counsel.
4 p.m.	OIAI Quality Assurance Specialist. Examination-in-Chief by the Applicant, who is self-represented, and cross-examination by the Respondent's Counsel.

Wednesday, 5 April 2023

2 p.m.	Investigation Officer. Examination-in-Chief by the Applicant, who is self-represented, and cross-examination by the Respondent's Counsel.
3 p.m.	Parties' closing statements

Conclusion

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

- a. An oral hearing will be held from **Tuesday, 4 to Wednesday, 5 April 2023, starting, respectively, at 2.30 p.m. and 2 p.m. Geneva time;**
- b. The parties are notified of the tentative schedule of appearances at the hearing as per para. 16 above;
- c. The parties are instructed to provide their contact details as well as those of the witnesses (email and phone number) no later than **Monday, 20 March 2023.**

(Signed)

Judge Teresa Bravo

Dated this 16th day of March 2023

Entered in the Register on this 16th day of March 2023

(Signed)

René M. Vargas M., Registrar, Geneva