



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2023/025

Order No.: 112 (GVA/2023)

Date: 29 August 2023

Original: English

Before: Duty Judge

Registry: Geneva

Registrar: René M. Vargas M.

RYAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Halil Göksan, AS/ALD/OHR, UN Secretariat

Introduction

1. On 26 April 2022, the Applicant filed a rebuttal against his 2021-2022 performance evaluation, its overall rating of “partially meets performance expectations”, and numerous allegedly false and defamatory comments, pursuant to sec. 15 of ST/AI/2021/4 (Performance Management and Development System).
2. On 28 December 2022, the rebuttal panel issued its report recommending that the Applicant’s overall rating should be changed to “meets performance expectations” (new rating). The rebuttal panel further added that: “While outside of its purview, the panel would also like to recommend that the comments should be commensurate with this new rating to ensure consistency between the comments and the overall rating”.
3. By email dated 12 January 2023, a Human Resources Officer with the United Nations Development Coordination Office (“UNDCO”), informed the Applicant that, pursuant to sec. 15.4 of ST/AI/2021/4, the rebuttal panel is only mandated to designate a new overall rating on the performance evaluation, and that neither it nor Human Resources (“HR”) have the delegation of authority to enforce a change in the comments. As a result, the comments on the Applicant’s 2021-2022 performance evaluation were maintained. This is the “contested decision”.
4. On 25 January 2023, the Applicant requested management evaluation of the contested decision.
5. On 8 March 2023, the Management Evaluation Unit (“MEU”) decided that the Applicant’s request for management evaluation was not receivable under staff rule 11.2(a).
6. On 5 May 2023, the Applicant filed the instant application.
7. On 15 May 2023, the application was served on the Respondent who, on 19 May 2023, filed a motion to have receivability determined as a preliminary matter.

8. By Order No. 55 (GVA/2023) of 31 May 2023, the Tribunal rejected the Respondent's motion to have receivability determined as a preliminary matter and instructed him to file his reply on the merits by 26 June 2023. In addition, the Tribunal ordered the Applicant to file his rejoinder by 26 July 2023, and the parties to explore resolving the issues amicably, reverting to the Tribunal in this respect by 31 July 2023.

9. On 26 June 2023, the Respondent filed his reply on the merits.

10. On 20 July 2023, the Applicant filed his rejoinder.

11. On 27 July 2023, the parties filed a joint submission seeking to suspend the proceedings pending mediation efforts.

12. By Order No. 86 (GVA/2023), the Tribunal granted the parties' joint motion and suspended the proceedings until 28 August 2023.

13. By email dated 28 August 2023, the Office of the United Nations Ombudsman and Mediation Services informed the Tribunal that the parties are still involved in mediation, and requested a further suspension of the proceedings.

Consideration

14. The Office of the Ombudsman submits that the parties are still involved in resolving the matter amicably through mediation, and thus requests a further suspension of the proceedings until Friday, 22 September 2023.

15. The Tribunal takes note of this and recalls that the General Assembly has consistently encouraged alternative dispute resolution.

16. Having examined the case record and guided by arts. 15.3, 15.4 and 15.5 of its Rules of Procedure, the Tribunal finds that it is in the interest of justice to give the parties sufficient time to focus on their settlement efforts by further suspending the proceedings as requested.

Conclusion

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

a. The proceedings before the Tribunal in this matter be further suspended during the parties' mediation discussions under the auspices of the Office of the United Nations Ombudsman and Mediation Services until **Friday, 22 September 2023;**

b. If a mediation agreement is reached within this period, the parties or the Office of the Ombudsman shall inform the Tribunal accordingly without delay, and the Applicant shall confirm to the Tribunal, in writing, that his application is withdrawn; or

c. If no settlement agreement can be reached within the prescribed period, the parties or the Office of the Ombudsman shall inform the Tribunal by **Wednesday, 27 September 2023.**

(Signed)

Judge Margaret Tibulya (Duty Judge)

Dated this 29th day of August 2023

Entered in the Register on this 29th day of August 2023

(Signed)

René M. Vargas M., Registrar, Geneva