



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: René M. Vargas M.

ARNOLD

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George Irving

Counsel for Respondent:

Miryoungh An, DAS/ALD/OHR, UN Secretariat

Introduction

1. By application filed on 10 November 2022, the Applicant, a staff member of the United Nations Mission in Kosovo (“UNMIK”), contests the decision to impose on her the disciplinary measure of written censure, in accordance with staff rule 10.2(a)(i), together with the managerial action of managerial coaching for one year.
2. On 9 December 2022, the Respondent filed his reply.
3. By Order No. 122 (GVA/2023) of 18 September 2023, the Tribunal convoked the parties to a case management discussion (“CMD”).
4. On 20 September 2023, the CMD took place, as scheduled, virtually through Microsoft Teams, with Counsel for each party present. At the CMD, the Applicant requested the Tribunal to hold a hearing.
5. By Order No. 126 (GVA/2023) of 21 September 2023, the Tribunal instructed the Applicant to, *inter alia*, file a submission by 2 October 2023 elaborating on the reasons for her request for an oral hearing, and indicating what witnesses and issues are envisaged.
6. On 2 October 2023, the Applicant filed her written submission where she indicated her intention to withdraw her request for an oral hearing. She also moved for a leave to submit her rejoinder to the reply.
7. On 3 October 2023, the Respondent filed his submission in response to the Applicant’s filing of 2 October 2023, requesting that the Applicant’s motion be denied or, alternatively, to be given a fair opportunity to submit his response to the Applicant’s rejoinder.

Consideration

Oral hearing

8. In support of the withdrawal of her request for an oral hearing, the Applicant largely reiterated her position during the CMD that “there is no real dispute as to the facts underlying the contested decision, although there may be differences on interpretation and in the legal conclusions drawn from the facts”. She added that

her decision in this regard is also motivated in part by her concerns over the confidentiality of the process.

9. Having reviewed the evidence on record and considering that the standard of proof applicable to the matter at issue is that of preponderance of evidence, the Tribunal does not find that an oral hearing on the merits is necessary in this case. As such, the Tribunal sees no obstacle to the Applicant's withdrawal of her request for a hearing. Consequently, the present case will be determined on the written pleadings without holding a hearing on the merits.

Filing of further submissions

10. Having perused the parties' submissions, the Tribunal considers it appropriate and in the interest of justice to grant the Applicant's motion to file a rejoinder.

11. In accordance with the principle of equality of arms, the Tribunal will give the Respondent an equal opportunity to respond to the Applicant's rejoinder.

Conclusion

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

- a. By **Tuesday, 10 October 2023**, the Applicant shall file a rejoinder; and
- b. By **Tuesday, 17 October 2023**, the Respondent shall file his comments on the Applicant's rejoinder.

(Signed)

Judge Sun Xiangzhuang

Dated this 4th day of October 2023

Entered in the Register on this 4th day of October 2023

(Signed)

René M. Vargas M., Registrar, Geneva