



**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** René M. Vargas M.

KAVOSH

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Wangenci Wahome Akedi

**Counsel for Respondent:**

Rebeca Britnell, UNHCR

Francisco Navarro, UNHCR

## **Introduction**

1. On 8 August 2022, the Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), filed an application contesting the decision to impose on him the disciplinary measure of dismissal.
2. On 14 September 2022, the Respondent filed his reply.
3. On 7 September 2023, the Applicant filed a rejoinder.
4. On 13 September 2023, a case management discussion (“CMD”) took place with the participation of the Applicant, his Counsel and Counsel for the Respondent.
5. By Order No. 123 (GVA/2023) of 19 September 2023, the Tribunal instructed the parties to file further information on several issues discussed during the CMD. Reference is made to para. 19 of that Order.
6. On 28 September 2023, the Respondent filed a motion for an extension of time to comply with Order No. 123 (GVA/2023) with respect to the complainant’s availability to testify and the language in which her testimony could be given. He also submitted *ex parte* information concerning the current location of the alleged victim.
7. On 28 September 2023, Counsel for the Applicant filed a submission along with a large number of documents into the case record.
8. On 6 October 2023, the Respondent informed the Tribunal that the complainant would be available to testify, should the Tribunal decide to hold a hearing, and that her testimony would be given in Persian.

## **Consideration**

### *Motion for an extension of time*

9. Given that the Respondent has already provided the information requested by the Tribunal in its Order No. 123 (GVA/2023), there is no need to adjudicate the pending motion as it has become moot.

### *The Applicant's 28 September 2023 filing*

10. The Tribunal recalls that pursuant to Order No. 123 (GVA/2023), by 28 September 2023 Counsel for the Applicant was to, *inter alia*:

- a. File Additional evidence pursuant to her oral motion at the CMD; and
- b. Clarify the Applicant's position with respect to the allegation of sexual exploitation and abuse.

### Additional evidence

11. On 28 September 2023, Counsel for the Applicant submitted more than 150 files spread across several folders, subfolders, and zip files, which contained documents in various formats, i.e., MS Word, PDF format, audio, video, and pictures. Counsel for the Applicant file no explanation about the files submitted. She merely listed 33 documents as the "additional evidence" on which "the Applicant will be relying ... in support of his case".

12. Having reviewed the above-mentioned submission, the Tribunal finds it appropriate to call the Applicant's Counsel's attention to the Code of Conduct for Legal Representatives and Litigants in Person ("the Code of Conduct"), which sets the standard of professional conduct expected of her.

13. Article 4 of the Code of Conduct provides, *inter alia*, that:

2. Legal representatives and litigants in person shall act diligently and efficiently and shall avoid unnecessary delay in the conduct of proceedings.

14. The Tribunal finds that in her submission of 28 September 2023, the Applicant's Counsel failed to properly comply with Order No. 123 (GVA/2023) and breached arts. 4.2 of the Code of Conduct. She filed a large number of documents in a disorganized manner and without any explanation.

15. Even considering that the intention of the Applicant's Counsel was to submit additional evidence, she is reminded that any submission of this kind should be accompanied by an explanation of the documents filed and, more importantly, of their individual relevance to the case. Additionally, evidence should be filed in a structured way, and the parties should refrain from submitting files that are already part of the case record.

16. The Tribunal's role is not to attempt to understand the structure and relevance of filings. Consequently, it will not accept filings that are presented in a disorganized way as they not only delay the proceedings but also put an undue burden on the Tribunal and the other party to make sense of the filing. It is in the best interest of a party to present his/her case in a clear and concise way.

17. Therefore, the Tribunal considers it appropriate to strike from the record the 28 September 2023 filing made by the Applicant's Counsel and to give her a final deadline to properly comply with Order No. 123 (GVA/2023) submitting only new evidence, if any.

18. The Applicant's Counsel is reminded that the file name of each document should include the annex number and the title of the annex, e.g., "Annex 001\_Contested decision.pdf". The list of supporting documents/annexes in the submission should include all annexes, each of which should be properly numbered, named, and dated. Additionally, each annex/document should be labelled with the corresponding number. Apart from video or audio files, all other documents should be filed in PDF format. No ZIP files should be submitted.

The Applicant's clarifications

19. By Order No. 123 (GVA/2023), the Tribunal instructed the Applicant to clarify his argument about the allegation of sexual exploitation and abuse, i.e., whether his position is that there was a consensual sexual relationship between two adults or that there was no sexual relationship at all.

20. In his submission, the Applicant indicates that although “there [was] a consensual relationship between the parties ... there was no sexual intercourse and/or penetration that occurred during the pendency of their friendship and/or relationship”. He also adds that “it was a friendship between two consenting adults and at no point was there any coercion and/or manipulation from the Applicant”.

21. The Tribunal considers the Applicant's response still ambiguous and it urges the Applicant to clarify his argument in this respect: is it the Applicant's position that there was no sexual relationship at all?

22. In view of the above, the deadline for the Respondent to file his response to the Applicant's submissions will be extended accordingly.

**Conclusion**

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

- a. The Applicant's 28 September 2023 submission is struck from the record;
- b. **By Monday, 16 October 2023**, the Applicant shall properly comply with Order No. 123 (GVA/2023), particularly in respect of the guidelines provided in paras. 15, 16, and 18 above; and
- c. **By Monday, 23 October 2023**, the Respondent shall file his comments on the Applicant's above submission.

Case No. UNDT/GVA/2022/029/T

Order No. 137 (GVA/2023)

*(Signed)*

Judge Sun Xiangzhuang

Dated this 9<sup>th</sup> day of October 2023

Entered in the Register on this 9<sup>th</sup> day of October 2023

*(Signed)*

René M. Vargas M., Registrar, Geneva