



Before: Judge Sun Xiangzhuang (Presiding), Judge Joelle Adda, Judge Sean Wallace

Registry: Geneva

Registrar: René M. Vargas M.

VANSHELBOIM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George Irving

Counsel for Respondent:

Isavella Maria Vasilogeorgi, DAS/ALD/OHR, UN Secretariat

Nicola Caon, DAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a former staff member of the United Nations Office for Project Services (“UNOPS”), contests the decision to impose on him the disciplinary measures of dismissal and a fine of twelve month’s net base salary. He also contests the decision to recover from him the amount of USD63,626,806 and to withhold the release of the PF.4 form (“separation notification”) to the United Nations Joint Staff Pension Fund (“UNJSPF”) until such indebtedness is fully recovered.
2. On 17 May 2023, the Respondent filed his reply.
3. By Order No. 120 (GVA/2023) of 14 September 2023, the Tribunal granted the parties’ request to exceed the page limit, directed the Applicant to file a rejoinder, and granted the Respondent’s motion to file translated documents. The Tribunal further encouraged the parties to seek alternative dispute resolution and, in response to the Applicant’s motion requesting the release of his separation notification to the UNJSPF, the Tribunal clarified that such claim could not be decided at the early stage of the proceedings, but that it would fast track consideration of the application due to this pressing matter.
4. Following a request for extension of time, which was granted, the Applicant filed his rejoinder on 13 October 2023.
5. On 19 October 2023, the parties filed a joint submission informing the Tribunal that they explored the possibility of amicable resolution, as instructed, but decided to pursue the litigation instead.
6. On 31 October 2023, the Respondent filed the translated documents pursuant to Order No. 120 (GVA/2023).
7. By email dated 24 November 2023, the Tribunal asked the parties to confirm their availability to virtually attend a case management discussion (“CMD”) between 11 and 15 December 2023.
8. By Order No. 163 (GVA/2023), the Tribunal invited the parties to attend a CMD, held virtually and in camera on 12 December 2023.

9. By Order No. 168 (GVA/2023), the Tribunal asked the parties to file further submissions by 29 December 2023, and scheduled a second CMD, which was held virtually and in camera on 31 January 2024.

10. By Order No. 3 (GVA/2024), the Tribunal informed the parties of the composition of a Three-Judge Panel to adjudicate the matter.

Consideration

Missing documentation

11. In response to Order No. 168 (GVA/2023), the Applicant requested on 29 December 2023 that the Tribunal order the Respondent to produce the Financial Report and Board of Auditors Report for the period ending on 31 December 2020 (A/76/5/ Add. 11). According to him, the report confirms that UNOPS created a bad debt provision for its joint investments and that the cancellation of the S3i initiative was a political decision unrelated to the Applicant's relations with Mr. David Kendrick. To support this position, the Applicant filed excerpts of said report as Annex 17.

12. The Tribunal notes, however, that document A/76/5/Add.11 is available to the public. Accordingly, it finds no reason to order the Respondent to produce it and the request is denied as moot.

The CMD on 31 January 2024

13. During the CMD, the parties agreed with providing the Tribunal with a joint statement of disputed and undisputed facts in relation to the 34 allegations against the Applicant in the Sanction Letter and the issue of recovery of financial loss by the Organization in the amount of USD63,626,806.

14. Accordingly, the parties are instructed to file said joint statement by 1 April 2024, clearly identifying for each disputed fact, the evidence on which they will rely on, including the testimony of witnesses, if any.

15. The parties are also instructed to inform the Tribunal whether the testimony of an expert witness is warranted. If so, they must also provide:

- a. The name and address of the expert, and a summary of their qualifications;
- b. The subject matter on which the expert is expected to testify;
- c. The facts or data that the expert considered in forming the opinions to be expressed;
- d. The substance of the findings and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; and
- e. The terms of any compensation to the expert for their work on the case.

16. Afterwards, the Tribunal will reconvene with the parties at a date to be determined to discuss if a hearing is needed and, if so, identify the witnesses, if any, to be heard.

Conclusion

17. In view of the foregoing, it is ORDERED THAT, by **Monday, 1 April 2024**, the parties shall file a joint statement of disputed and undisputed facts, pursuant to paras. 13 to 15 above.

(Signed)

Judge Sun Xiangzhuang (Presiding)

Dated this 1st day of February 2024

Entered in the Register on this 1st day of February 2024

(Signed)

René M. Vargas M., Registrar, Geneva