



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: René M. Vargas M.

DE JAEGERE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Ludovica Moro
Eline Tritsmans

Counsel for Respondent:

Jacob B. van de Velden, DAS/ALD/OHR, UN Secretariat
Maria Romanova, DAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a former Crime Prevention and Criminal Justice Officer at the United Nations Office on Drugs and Crime (“UNODC”), contests the decision of 30 November 2022 to separate him from service, with compensation in lieu of notice and without separation indemnity.
2. On 27 February 2023, the Applicant filed a motion for extension of time to file an application, which was granted. The complete application was then filed on 20 March 2023.
3. On 20 April 2023, the Respondent filed his reply.
4. In response to an instruction from the Tribunal, the Applicant filed a rejoinder on 12 June 2023.
5. On 1 February 2024, the case was assigned to the undersigned Judge.
6. By Order No. 21 (GVA/2024), the Tribunal invited the parties to a case management discussion (“CMD”), which was held virtually via Microsoft Teams on Tuesday, 9 April 2024.
7. By Order No. 30 (GVA/2024) of 12 April 2024, the Tribunal:
 - a. Rejected the Applicant’s motion for anonymity;
 - b. Instructed the Respondent to file *ex-parte* all the supporting documents of the Office of Internal Oversight Services (“OIOS”) investigation, duly numbered and indexed;
 - c. Instructed the parties to identify the relevant witnesses to a hearing on the merits, further confirming their availability to attend a hearing on the merits in the proposed dates; and
 - d. Instructed the parties to file a joint submission with an agreed hearing bundle of documents attached to it.

8. On 19 April 2024, the Respondent complied with the first part of Order No. 30 (GVA/2024), filing *ex-parte* the supporting documents of the OIOS investigation.

Consideration

9. In support of his submission and request to have the Applicant's motion for production of evidence denied, the Respondent provided some observations made by OIOS for the Tribunal to consider before any disclosure.

10. According to OIOS, the numerical "gaps" in the order of the documents referenced in the investigation report related to the OIOS Investigation Division's various uses of its case management system. The documents that OIOS shares with the Office of Human Resources ("OHR") are the evidentiary materials that are relevant to the facts under investigation. Documents excluded from supporting documents include unused material, monitoring memorandums, and OIOS internal work product.

11. OIOS further considered that disclosure of the latter category of documents (i.e., OIOS internal work product) would set a precedent impacting the Division's case management practices.

12. The Tribunal takes note of the above, and highlights that it never intended to disclose internal work documents, but rather merely verify whether the unused material gathered by the investigators was indeed irrelevant to these proceedings. Otherwise, undisclosed relevant material would have affected the Applicant's due process rights.

13. Having reviewed all the supporting documents provided by OIOS, the Tribunal confirms that there is no relevant document to the facts left to be disclosed to the Applicant, including no other screenshots of WhatsApp conversations from 5 February 2017 between the Applicant and V01.

14. Accordingly, the supporting documentation of the OIOS investigation filed *ex-parte* by the Respondent on 19 April 2024 will not be disclosed to the Applicant and will not be considered by the Tribunal in its adjudication of this case.

15. With respect to the Applicant's motion for production of evidence, as it is well-established practice, parties requesting the production of evidence must be able to identify the relevant documents they wish the other party to produce, and indicate why such evidentiary production is necessary.

16. Considering that the Applicant did not identify any specific document/evidence he wants the Respondent to produce, except for the list of "missing documents" dealt with above, the motion for production of evidence is denied.

17. Lastly, with respect to the WhatsApp conversation of 5 February 2017, there is no evidence that the investigation had access to the full content of the conversation beyond the screenshot that is part of these proceedings. To the extent that the Applicant intends to question the reliance by the investigator(s) on a screenshot of a conversation, he will have an opportunity to do so at the hearing on the merits, through the examination and cross examination of the Applicant, V01, and the investigator(s).

Conclusion

18. In view of the foregoing, it is ORDERED THAT the Applicant's motion for production of evidence is rejected.

(Signed)

Judge Sun Xiangzhuang

Dated this 23th day of April 2024

Case No. UNDT/GVA/2023/008

Order No. 37 (GVA/2024)

Entered in the Register on this 23th day of April 2024

(Signed)

René M. Vargas M., Registrar, Geneva