



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:

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

Maria Romanova, 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 a 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.

11. By Order No. 20 (GVA/2024), the Tribunal rejected the Applicant's motion for production of the Financial and Board of Auditors Report for the period ending on 31 December 2020 (A/76/5/Add.11), and instructed the parties to file 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. The parties were also instructed to identify for each disputed fact, the evidence on which they will rely on, including the testimony of witnesses, and to inform the Tribunal whether the testimony of an expert witness is warranted.

12. On 29 March 2024, the Applicant filed additional documentation, numbered annexes 18 to 37, and submitted a request for further production of evidence.

13. On 2 April 2024, the parties filed their joint statement in response to Order No. 20 (GVA/2024).

Consideration

New annexes 18 to 37

14. With his submission of 29 March 2024, the Applicant filed new annexes 18 to 37, which contain several photographs of email correspondence between the Applicant and other parties involved in the matter at hand.

15. However, the Tribunal notes that many of these documents are partially illegible due to the poor quality of the photographs.

16. While the Tribunal recognizes the Applicant's efforts in summarising and paraphrasing into a separate table the information contained in these documents, it cannot accept into evidence documents that are partially illegible and, thus, that cannot be verified.

17. Consequently, if the Applicant wishes that the Tribunal consider the new annexes as evidence in its determination, he must file new legible copies of them.

Request for additional documentation

18. With his submission, the Applicant informed the Tribunal that "he has already identified hundreds of relevant documents that will be ready for release within a maximum of 60 calendar days from now should the Judges so permit".

19. While it is unclear to the Tribunal why already identified and deemed "relevant" documents require 60 calendar days to be submitted into evidence, it will, in the interest of justice and in the fair disposition of this case, grant the Applicant's request.

CMD

20. Following the parties' joint statement of disputed and undisputed facts, the Tribunal finds it appropriate to call them to a new virtual *in camera* CMD to discuss the next steps moving forward, including a hearing on the merits and potential witnesses.

Conclusion

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

- a. The Applicant shall re-file annexes 18 to 37 in accordance with paras. 14 to 17 above, by **Tuesday, 28 May 2024**;
- b. The Applicant shall file submissions in accordance with paras. 18 and 19 above, by **Tuesday, 28 May 2024**; and

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c. The parties shall attend a third *in camera* CMD on **Friday, 3 May 2024 at 3 p.m. (Geneva time)**, which will be conducted virtually through Microsoft Teams and pursuant to para. 20 above.

(Signed)

Judge Sun Xiangzhuang (Presiding)

Dated this 29th day of April 2024

Entered in the Register on this 29th day of April 2024

(Signed)

René M. Vargas M., Registrar, Geneva