



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/020

Order No.: 35 (GVA/2025)

Date: 16 April 2025

Original: English

Before: Judge Margaret Tibulya

Registry: Geneva

Registrar: Liliana López Bello

IACOVINO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Jérôme Blanchard, HRLU, UNOG

Introduction

1. On 10 June 2024, the Applicant, a former staff member of the International Trade Center (“ITC”), filed an application contesting the decision “not to extend [his] employment to cover [his] sick leave and instead to terminate [his] appointment and separate [him] while on certified sick leave”.
2. On 11 July 2024, the Respondent filed his reply, *inter alia*, contesting the receivability of part of the application.
3. By Order No. 105 (GVA/2024), the Tribunal instructed the Applicant to file a rejoinder and encouraged the parties to explore resolving their dispute amicably.
4. On 24 September 2024, the Applicant filed his rejoinder.
5. On 1 October 2024, the parties filed a joint motion informing the Tribunal that an informal settlement in this matter was not possible.
6. On 1 April 2025, the present case was assigned to the undersigned Judge.
7. On 2 April 2025, the Tribunal scheduled a Case Management Discussion (“CMD”), which took place via MS Teams on 7 April 2025.

Consideration

Request for disclosure of evidence

8. The Applicant submits that the Organization’s practice is to delay termination in cases where the staff member is on sick leave at the time of proposed termination. The Applicant requests the Tribunal to order the Respondent to disclose “data on the number of staff members since 2009 whose employment has been prolonged due to them being on sick leave at the proposed moment of termination and the number who have had their appointments terminated while on sick leave” for the Tribunal to be able to resolve this issue.

9. According to the Applicant, this evidence would show that until very recently, the Organization has interpreted para. 3.9 of ST/AI/2005/3 on Sick Leave as applying equally to open-ended appointment holders and fixed-term appointment holders.

10. The Respondent opposes the Applicant's request to produce statistics or data to demonstrate an alleged practice within the Organization and submits that such practice, if it exists, would not be relevant to determine the lawfulness of the contested decision. He asserts, *inter alia*, that the Applicant was not on sick leave when his contract was terminated and that his appointment was limited to ITC and not the wider Organization.

11. The Tribunal is not persuaded by the Applicant's argument. The application for an order for disclosure of "data on the number of staff members since 2009 whose employment has been prolonged due to them being on sick leave at the proposed moment of termination and the number who have had their appointments terminated while on sick leave" is a clear attempt at embarking on a fishing expedition. The request is not specific in terms of the documents that are required. If granted, it will require that the Respondent mine records covering a period of 16 years, which would be unreasonable. The Tribunal will, therefore, not grant the request.

12. Crucially, the legality of the contested decision does not necessarily depend on the existence of a practice in the Organization but rather on the facts of this case as supported by evidence, and the applicable legal framework

13. Accordingly, the Applicant's motion for disclosure of evidence is denied.

Closing submissions

14. Apart from a ruling on the Applicant's motion for disclosure of evidence, the parties agreed during the CMD that the case was sufficiently informed and that there was no need for a hearing on the merits.

15. Therefore, pursuant to art. 19 of the Tribunal's Rules of Procedure, and for the fair disposal of the case, the parties are instructed to file their respective closing submission. Upon their filing, the Tribunal will move forward with adjudicating the case.

Conclusion

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

- a. The Applicant's request for disclosure of evidence is denied; and
- b. The parties shall file their respective closing submission by **Wednesday, 23 April 2025**, which shall:
 - i. Exclusively refer to the evidence already on file; and
 - ii. Not exceed five pages, using Times New Roman, font size 12 pts and 1.5 line spacing.

(Signed)

Judge Margaret Tibulya

Dated this 16th day of April 2025

Entered in the Register on this 16th day of April 2025

(Signed)

Liliana López Bello, Registrar, Geneva