



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/067

Order No.: 96 (GVA/2025)

Date: 11 August 2025

Original: English

Before: Judge Solomon Areda Waktolla

Registry: Geneva

Registrar: Liliana López Bello

NOVO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Marco Gambardella, OSLA
Robbie Leighton, OSLA

Counsel for Respondent:

Alister Cumming, UNICEF
Chinonyelum Esther Uwazie, UNICEF

Introduction

1. The Applicant, a former staff member of the United Nations Children’s Fund (“UNICEF”), filed an application on 16 December 2024 contesting the decision to impose on him the disciplinary measure of separation from service with compensation in lieu of notice and with termination indemnity, as well as the administrative measure of placing his name on the ClearCheck database.
2. On 15 January 2025, the Respondent filed his reply.
3. On 13 March 2025, the Duty Judge instructed the Applicant to file a rejoinder to the Respondent’s reply, and the parties to explore the possibility of having the dispute between them resolved without recourse to further litigation.
4. On 27 March 2025, the Applicant filed his rejoinder.
5. On 7 April 2025, the parties informed the Tribunal that, at that stage, there was no prospect of an informal resolution of this matter.
6. On 1 July 2025, the case was assigned to the undersigned Judge.
7. By Order No. 85 (GVA/2025), the Tribunal, *inter alia*, invited the parties to a Case Management Discussion (“CMD”), which took place on 17 July 2025.
8. After the CMD, the Tribunal instructed the parties to confirm by 23 July 2025 their availability and of their witnesses to attend a hearing on the merits between Monday, 1, and Friday, 5 September 2025, starting at 2 p.m. (Geneva time).
9. On 23 and 31 July 2025, respectively, the Applicant and the Respondent filed their submissions regarding availability to attend the hearing at the proposed period.

Consideration

Hearing on the merits

10. Based on the discussion between the parties at the CMD, the Tribunal instructed the parties to confirm their availability and that of the following potential

witnesses to attend a hearing on the merits between 1 and 5 September 2025: the Applicant, V01, V02, V03, W01, W02, W04, W05, W08, and W12.

11. In his response, Counsel for the Applicant confirmed his availability and that of the Applicant. In turn, the Respondent confirmed the availability of the remaining witnesses. The Respondent informed that he had added W05 in the list of potential witnesses as a mistake and that, instead, he wished for the testimony of W03. He also informed that V03 will be on pre-planned annual leave during the proposed week, with limited access to the internet, but that she could try to make herself available on 3 September 2025, at 2 p.m. V03 proposed, in the alternative, to be heard on the following week.

12. Counsel for the Respondent further informed that he had not been able to reach W08. Since she is not a staff member and, therefore, not subject to the authority of the Secretary-General, the Respondent asked for her removal from the list of potential witnesses. He further sought leave to include her at a later stage if, in the future, she confirms willingness to attend the hearing.

13. Having considered the parties' submissions and the evidence on record, the Tribunal finds it appropriate to conduct a virtual hearing on the merits on the proposed period. Based on its assessment of the case file and the testimonies proposed by the parties, the Tribunal decides to invite the following witnesses to give testimony:

- a. The Applicant;
- b. V01;
- c. V02;
- d. V03;
- e. W01;
- f. W02;
- g. W03;

h. W04; and

i. W12;

14. As W08 has failed to respond within the prescribed timeframe, the Tribunal finds no alternative but to exclude her from the list of witnesses. Should Counsel succeed in establishing contact with her prior to the commencement of the hearing, he may seek leave to include her testimony. The Tribunal reserves its right to rule on such a request if and when it occurs.

15. With regard to V03, the Tribunal regrets that, due to its own time constraints, cannot postpone her testimony to the following week. The Tribunal acknowledges and appreciates her willingness to participate in the hearing during a pre-scheduled annual leave, and will make every effort to accommodate her limited availability.

Tentative schedule

16. Based on the information provided by the parties, the tentative schedule of the hearing, which may be subject to change, is as follows:

Monday, 1 September 2025 (all times are Geneva time)

2 p.m.	Parties' opening statements.
2:40 p.m.	The Applicant's examination-in-Chief by his Counsel, followed by cross-examination by Counsel for the Respondent.

Tuesday, 2 September 2025

2 p.m.	V01. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant
4 p.m.	V02. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant.

Wednesday, 3 September 2025

2 p.m.	V03. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant
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4 p.m.	W01. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant.
5:10 p.m.	W02. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant.

Thursday, 4 September 2025

2 p.m.	W03. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant
3:10 p.m.	W04. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant.
4:20 p.m.	W12. Examination-in-Chief by Counsel for the Respondent, followed by cross-examination by Counsel for the Applicant.

17. As per the tentative schedule above, Counsel for the Applicant and Counsel for the Respondent shall have one hour each for their respective examinations of the Applicant, V01, V02, and V03, and 35 minutes each for their respective examinations of W01, W02, W03, W04, and W12.

Agreed hearing bundle

18. As has been the practice in previous hearings involving disputed facts, the Tribunal finds it appropriate to direct the parties to jointly produce an agreed bundle of documents/evidence on which they intend to rely at the upcoming hearing on the merits, in chronological order, indexed and paginated. Such a bundle will be restricted to the issues proposed to be discussed at the hearing and used to examine and cross-examine the witnesses.

Witness statements

19. The parties shall also provide a concise witness statement for each of the witnesses listed above containing a clear indication of the disputed facts they each will be testifying about at the upcoming hearing. For the sake of clarity, Counsel for the Applicant shall provide a witness statement from the Applicant, and Counsel for the Respondent shall provide a witness statement from V01, V02, V03, W01, W02, W03, W04, and W12.

Conclusion

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

- a. An oral hearing will be virtually held between **Monday, 1, and Thursday, 4 September 2025** via Microsoft Teams;
- b. The parties are notified of the tentative schedule of appearances at the hearing as per para. 16 above;
- c. The parties shall file the witness statements, as per para. 19 above, by **Monday, 25 August 2025**;
- d. The parties shall file a joint submission with an agreed hearing bundle of documents attached to it by **Monday, 25 August 2025**; and
- e. The parties are instructed to provide their contact details, including the witnesses' (email and phone number), no later than **Friday, 15 August 2025**.

(Signed)

Judge Solomon Areda Waktolla

Dated this 11th day of August 2025

Entered in the Register on this 11th day of August 2025

(Signed)

Liliana López Bello, Registrar, Geneva