



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2025/032
Order No.: 136 (GVA/2025)
Date: 1 December 2025
Original: English

Before: Duty Judge
Registry: Geneva
Registrar: Liliana López Bello

DE DOBBELAERE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Alister Cumming, UNICEF

Introduction

1. On 13 June 2025, the Applicant, a former staff member of the United Nations Children's Fund ("UNICEF"), filed an application with the Tribunal challenging the 22 January 2025 administrative decision to issue her a written reprimand. With her application, the Applicant also filed motions for anonymity, for change of venue, for production of evidence, and for the placement of documents under seal.
2. By Order No. 99 (GVA/2025) of 21 August 2025, the Tribunal, *inter alia*, rejected the Applicant's motion for anonymity, rejected her motion for change of venue, granted her motion to file a rejoinder, and instructed her to identify which annexes she wanted to have placed under seal. The Applicant filed an interlocutory appeal before the United Nations Appeals Tribunal against this Order.
3. On 25 August 2025, the Applicant informed the Tribunal that she wanted annexes 66, 67, 68, 69, and 70, to be placed under seal.
4. On 15 September 2025, the Applicant filed her rejoinder.
5. On 17 September 2025, the Applicant filed a motion for production of evidence, requesting the Respondent to produce the unredacted originals of annexes R/3 to R/13 inclusive, attached to the Respondent's reply.
6. On 19 September 2025, the Respondent responded to the Applicant's request for documents to be placed under seal. He did not object to said reclassification but highlighted that such placement should not impair Counsel's ability to properly represent its case.
7. On 24 September 2025, the Respondent responded to the Applicant's motion for production of evidence requesting the Tribunal to reject it.
8. On 28 September 2025, the Applicant filed a motion for leave to respond to the Respondent's submission on her request for disclosure of evidence, and a motion requesting an oral hearing.
9. On 6 October 2025, the Respondent submitted, *inter alia*, that an oral hearing is not needed in this case.

Consideration

Motion for reclassification of documents under seal

10. The Applicant requests that annexes 66, 67, 68, 69, and 70, which contain sensitive and confidential information, be placed under seal, and that Counsel for the Respondent be instructed not to download or share the content of these annexes with any external person.

11. In support, the Applicant submits that this measure is necessary because UNICEF has allegedly already breached confidentiality and violated her right to privacy, has retaliated against her with the issuance of a written reprimand, and its legal representatives have likely violated the Code of Conduct for legal representatives and litigants in person (the “Code of Conduct”).

12. Counsel for the Respondent does not object to the placement of said annexes under seal but submits that such exercise should not impair his ability to properly respond to any submission by the Applicant. In this context, Counsel has requested that the reference to the “non-filing party” in para. 19 of the Guidelines on the filings of submissions through the e-filing Portal (the “Guidelines”) be interpreted broadly to include any appropriate UNICEF staff member besides himself. Otherwise, only the Secretary-General himself could provide instructions, which is not the intention of the Guidelines.

13. The Tribunal notes that the Applicant has not filed annexes 66 and 67 in the present case. Consequently, only annexes 68, 69, and 70 will be considered in the Tribunal’s forthcoming assessment regarding whether they should be reclassified as under seal.

14. Pursuant to the Guidelines:

19. In the context of the Dispute Tribunal, **filing a document under seal means that only the filing party, the non-filing party to the proceedings, and the Tribunal will have access to it.** No third party will have access to the protected document unless it is unsealed by an order of the Tribunal.

20. The option of filing under seal is reserved for filings that require additional protection against disclosure to third parties. Specifically,

should at any point in time the Tribunal issue an order granting access to a case file to a third party, any filings under seal in that case file would remain confidential unless a separate order is issued by the Tribunal specifically granting access to them.

15. While the Respondent is correct that he may be required to seek instructions or solicit comments from other staff members of UNICEF in his capacity of representative of the Secretary-General in these proceedings, and that downloading the foregoing documents and sharing the information therein may be thus unavoidable, the Tribunal disagrees that the under seal limitation to the annexes in question may actually impair his ability to properly respond to the Applicant's submission.

16. This is because the documents the Applicant seeks to have reclassified as under seal are medical records related to her allegation of compensable harm. These documents do not relate to any of the disputed facts in this case and, therefore, do not need to be shared, nor do they require consultation with other UNICEF staff members. They are, in fact, more relevant for the Tribunal's assessment of compensable harm, if any.

17. In any case, should Counsel for the Respondent determine that consultation with others regarding the annexes under seal is necessary, he may request authorization from the Tribunal, justifying why external access is required, in accordance with para. 20 of the Guidelines. Accordingly, in the Tribunal's view, the reclassification at this stage does not impair the Respondent's ability to properly respond to the submissions.

18. Furthermore, the Tribunal is not convinced of the Respondent's argument that the term "non-filing party" in para. 19 of the Guidelines should be interpreted broadly.

19. Para. 4 of the Guidelines already provides that all filings with the Dispute Tribunal are not available to third parties, unless access to them is granted by the Tribunal. In this scenario, the Tribunal agrees that the term "third parties" does not apply to co-workers of Counsel for the Respondent, or other staff members of the

Organization whose interests he is representing and that may need to be consulted on some evidence or submissions in the proceedings.

20. However, the Guidelines also offer additional protection against disclosure with the inclusion of paras. 19 and 20. These provisions clearly restrict access to documents placed under seal by any third party to these proceedings, which undoubtedly includes other UNICEF staff members. Otherwise, the purpose of providing additional protection against disclosure to third parties would be pointless, given that the proceedings are already protected by confidentiality, and Counsel is also bound by art. 6 of the Code of Conduct for Legal Representatives and Litigants in Person, as below.

1. Legal representatives and litigants in person shall maintain the confidentiality of the proceedings of the Tribunals in accordance with the provisions of the statutes and rules of procedure, or as otherwise ordered by the Tribunals.

2. Legal representatives and litigants in person shall respect the confidential character of any information imparted to them in confidence in the proceedings.

3. Legal representatives and litigants in person shall not disclose, except as appropriate in the normal course of the proceedings, any document which is inviolable in accordance with applicable legal instruments on privileges and immunities of the United Nations, its specialized agencies or other United Nations entities, unless such document is already public or by authorization of the Secretary-General or the appropriate official of the relevant entity before the Tribunal.

21. Therefore, considering the nature of the documents the Applicant seeks to have reclassified as under seal, and the fact that no harm to Counsel for the Respondent results from such reclassification, the Tribunal finds it appropriate to grant the Applicant's motion and reclassify annexes 68, 69, and 70 as under seal in these proceedings.

22. Additionally, the Tribunal highlights that the granting of the Applicant's motion is not based on her allegations that the Organization violated her privacy rights and that Counsel "likely" breached the Code of Conduct. These allegations remain yet unfounded and are not the basis for the foregoing decision.

Motion for production of evidence

23. The Applicant requests that the Respondent be ordered to produce the unredacted originals of annexes R/3 to R/13 attached to his reply, and submits the following in support:

- a. The Tribunal must determine whether the written reprimand was a lawful, reasonable, and proportionate measure, and whether it was procedurally fair. The Applicant alleges violations of due process, retaliatory motive, and *mala fides*, which the Respondent contests. The case, therefore, concerns both the substance of the reprimand and the propriety of the process by which it was issued. Evidence on that process is directly relevant;
- b. The Respondent's reply included annexes R/3 to R/13, comprising all emails mentioned in the reprimand. These annexes were redacted "to remove irrelevant comments or the names of those copied." The Respondent indicated that, if the Tribunal wishes to view the originals, it will seek to file them *ex parte*;
- c. In its reply, the Respondent submitted annexes R/3 to R/13, which include all the emails mentioned in the reprimand. However, these annexes have been redacted "to remove irrelevant comments or the names of those copied on these documents." The Respondent stated that, should the Tribunal wish to view the unredacted originals, it would seek to file them *ex parte*. The Applicant argues that this approach is fundamentally unfair and inconsistent with due process and transparency. It risks creating the impression that the Tribunal is validating the Respondent's narrative in a closed process, while denying the Applicant the opportunity to test the evidence, expose contradictions, or challenge the framing of her communications; and
- d. She further submits that the Respondent has provided no valid justification for the redactions and cites Appeals Tribunal jurisprudence requiring transparency to an applicant regarding case evidence (*Bertucci* 2011-UNAT-121).

24. In response, the Respondent objects to disclosing unredacted versions of the annexes for the following reasons:

- a. Redactions were applied to remove names of email recipients and dates, which are irrelevant to the application and cause no prejudice to the Applicant;
- b. For annexes R/7, R/8, and R/10, redactions excluded irrelevant content such as recipients' reactions and, in Annex R/10, possible next steps. These matters do not affect the Applicant's claims;
- c. The Respondent is concerned that the Applicant, who has previously used hostile language in emails, may contact recipients if given access to unredacted annexes, posing a substantial risk to their privacy;
- d. While the Applicant is bound by the Dispute Tribunal's Code of Conduct for Legal Representatives and Litigants in Person, she is no longer a staff member and therefore the remedies for any breach by her of the Code are limited; and
- e. The Applicant's request amounts to a 'fishing expedition' (see *Abdellaoui*, 2019-UNAT-929, paras. 30-31). The Applicant has not shown how the unredacted annexes would assist her procedural or bad faith arguments; instead, she seeks them in the hope of finding supporting material, which is the very definition of a fishing expedition.

25. Subsequently to the Respondent's response, the Applicant filed a motion requesting leave to address "inaccuracies and arguments in the Respondent's submissions".

26. The Tribunal considers itself fully briefed on the matter of the redacted documents and, therefore, respectfully declines further submissions in this respect.

27. On the merits, the Tribunal considers it necessary to review the unredacted versions of the annexes before ruling on the Applicant's request. This step ensures that the Tribunal can independently verify whether the redacted portions contain

information relevant to the issues in dispute. Contrary to the Applicant's assertion, this practice safeguards fairness by preventing unnecessary disclosure of irrelevant or sensitive material while guaranteeing that all relevant evidence is considered.

Motion for oral hearing

28. The Tribunal acknowledges the Applicant's motion for an oral hearing and the Respondent's objection. At this stage, the Tribunal considers the matter premature and will defer its decision until the case reaches the stage at which it is formally scheduled for adjudication. This approach ensures that any ruling on an oral hearing is made in the proper procedural context, based on the full record and the issues identified for determination.

Conclusion

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

- a. The Applicant's motion to have annexes 68, 69, and 70, reclassified as under seal is granted;
- b. The Applicant's motion seeking leave to respond to the Respondent's submission regarding the redacted annexes is rejected;
- c. By **Monday, 15 December 2025**, the Respondent shall file the unredacted versions of annexes R/3 to R/13, inclusive, on an *ex parte* basis; and
- d. A decision on the Applicant's motion for an oral hearing is deferred.

(Signed)

Judge Sun Xiangzhuang (Duty Judge)

Dated this 1st day of December 2025

Entered in the Register on this 1st day of December 2025

(Signed)

Liliana López Bello, Registrar, Geneva