



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2021/100

Order No.: 118 (NBI/2022)

Date: 26 August 2022

Original: English

Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

KAZAZI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR PRODUCTION OF
ADDITIONAL DOCUMENTS**

Counsel for the Applicant:

Sétondji Roland Adjovi, *Etudes Vihodé*

Counsel for the Respondent:

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

Andrea Ernst, AAS/ALD/OHR, UN Secretariat

Introduction

1. At the close of the hearing of the case on the merits on 22 August 2022, the Applicant made an oral submission relating to the production of additional documents.

2. He subsequently filed written submissions supplementing his oral submissions and requested the Tribunal to issue an order for production of six documents, including. (i) both Mr. Malik's and Mr. Waine's V01's original electronic versions of their 16/17 October 2019 email exchange containing metadata, which was previously submitted in PDF form by the Respondent on 19 August 2022 as R/11; (ii) original electronic versions of Mr. Malik's emails complete with all attachments between 13 October 2019 and 17 October 2019 containing exchanges between himself and Mr. Abbas Koura and Mr. Kaies Ghazouani regarding the 17 October 2019 interview of Mr. Kazazi; (iii) original electronic versions of Mr. Malik's emails complete with all attachments between 17 October 2019 and 26 January 2019 containing exchanges complete with all attachments between Mr. Malik, Mr. Koura, Mr. Ghazouani and any others involved with editing this Note to File ("NTF"), and all versions of the NTF; (iv) the original electronic version of the email from Mr. Malik to the Office of Internal Oversight Services ("OIOS") containing the final attached version of the NTF last modified on 26 January 2019 which became ICF-000030; (v) documented evidence of the date and time when OIOS Investigation case number 1118/19 was approved in OIOS case management system by Mr. Swanson; and (vi) the flow for the review of the investigation report, including who reviewed it and when.

3. The motion was served on the Respondent on 23 August 2022, and he filed his submissions on 25 August 2022. The Respondent opposed the motion on the ground that the determining factor for requesting and producing documents is whether such documents are relevant and material; but not whether such documents are available. The Applicant has failed to state the reasons why the further documents requested are relevant and material in this case.

4. On 26 August 2022, the Applicant filed a motion for leave to respond to the Respondent's submissions on additional documents and calling of additional witnesses.

Deliberations

5. In *Bertucci* 2010-UNAT-062, paras. 22 and 23, the United Nations Appeals Tribunal ("UNAT") held that,

under the new system of administration of justice, the Dispute Tribunal ("UNDT") has broad discretion with respect to case management. As the court of first instance, the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and do justice to the parties.

6. Considering that the Applicant's motion falls squarely within the case management authority of this Tribunal regarding evidence, procedure and trial conduct, and based on the progress of this case, the motion is denied. The Applicant does not indicate how the required documents will assist his case. Documents on the record are sufficient to guide the Tribunal in determining the issues relating to the alleged violation of the Applicant's due process rights.

ORDER

7. The Applicant's motion for production of additional documents is rejected.

(Signed)

Judge Margaret Tibulya
Dated this 26th day of August 2022

Entered in the Register on this 26th day of August 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi