



Before: Judge Francesco Buffa.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

MILLAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE PARTIES' MOTIONS
ON EVIDENCE**

Counsel for the Applicant:

Sétondji Roland Adjovi, *Etudes Vihodé*.

Charles A. Adeogun-Phillips, *Charles Anthony LLP*

Counsel for the Respondent:

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

Andrea Ernst, DAS/ALD/OHR, UN Secretariat

Introduction

1. On 16 February 2023, the Tribunal issued Order No. 042 (NBI/2023), and, among others, decided that:
 - a. by **28 February 2023**, the Respondent specify if a sanction was imposed on Mr. Juan C. Cunillera and, in the positive, submit the sanction letter issued to him;
 - b. by the same date, **28 February 2023**, the parties would file any motions for documents or evidence they wish the Tribunal to rule on prior to the filing of their closing submissions.
 - c. the Respondent's request not to admit documents and to hold the Applicant and his Counsel in contempt was rejected; and
 - d. the Applicant's motion to call witnesses was rejected as well.
2. The parties were directed to file their closing submissions on or before 31 March 2023.
3. On 27 February 2023, the Respondent complied and filed submissions in response to Order No. 042 (NBI/2023) and confirmed that a sanction was imposed on Mr. Cunillera on 11 April 2022. The Respondent provided a copy of the sanction letter and requested the Tribunal to direct the Applicant and his Counsel not to publish it beyond the present proceedings or otherwise disseminate its contents.
4. Similarly, on 28 February 2023, the Applicant also complied and filed his submissions in response to Order No. 042 (NBI/2023). With his response, the Applicant filed two additional motions. The first motion seeking leave to submit comments on Mr. Cunillera's sanction letter and the second motion requesting the Tribunal to reconsider its decision to not hold a hearing and to call witnesses.

5. Further, in compliance with paragraph 10(b) of Order No. 042 (NBI/2023), the Applicant filed submissions in connection with his health. The supporting documents include medical reports and bills, filed *ex parte*, and requested that they be admitted into evidence.

6. On 28 February 2023, the Respondent, in reaction to the Applicant's *ex parte* filings, submitted a request indicating that if the Tribunal intends to rely on the Applicant's *ex parte* evidence, he requests for the opportunity to respond to this evidence.

ORDERS

7. The Tribunal has reviewed the parties' submissions highlighted above and having in mind arts. 16.1 and 2 of the Rules of Procedure of the UNDT, decides as follows:

- a. The 11 April 2022 sanction letter of Mr. Cunillera shall be shared with the Applicant, but under seal.
- b. The Applicant's motion to comment on Mr. Cunillera's sanction letter is granted. The comments shall be filed together with his closing submissions.
- c. The Applicant's motion for the Tribunal to reconsider its decision on oral hearing is rejected. The motion does not provide any reasons to modify the previous decision contained in Order No. 042 (NBI/2023).
- d. The Respondent's request to respond to the Applicant's evidence filed *ex parte* is granted. The Respondent shall file his comments together with his closing submissions.

8. The Tribunal decides that no additional documents or motions shall be accepted in this case.

Case No.: UNDT/NBI/2022/060

Order No.: 059 (NBI/2023)

(Signed)

Judge Francesco Buffa

Dated this 1st day of March 2023

Entered in the Register on this 1st day of March 2023

(Signed)

Eric Muli, Legal Officer, for
Abena Kwakye-Berko, Registrar, Nairobi