



Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

NADEAU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Peter A. Gallo, Esq.

Counsel for Respondent:

Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. By Order No. 126 (NY/2019) dated 10 September 2019, the Tribunal ordered the parties to file their closing statements in the following sequence: 4 October (the Applicant); 18 October 2019 (the Respondent); and 25 October 2019 (the Applicant).

2. The Applicant did not file his closing statement as ordered by the Tribunal on 4 October 2019.

3. On 7 October 2019, the Respondent filed a motion in response to Order No. 126 (NY/2019) in which he requested the Dispute Tribunal to “vacate the deadline for the Respondent’s response to the Applicant’s closing submission, and to proceed to the issuance of the final judgement” in the absence of a closing submission from the Applicant.

4. On 8 October 2019, the Registry phoned Applicant’s Counsel who confirmed that he had received Order No. 126 (NY/2019) and that he did not experience any technical difficulties.

5. On 8 October 2019, Counsel for the Applicant filed a “request for stay of proceedings” in which he “apologise[d] to the Tribunal for failing to meet the 4 October deadline for submissions as directed in Order 126 (NY/2019)”, noting that “[f]ault for this lies entirely and exclusively with Counsel”. Counsel further observed that he “is still seeking to establish whether or not the Respondent is willing to discuss settlement of UNDT/NY/2019/008, settlement of which would (if agreed) render UNDT/NY/2015/063 moot and allow both outstanding cases to be stricken” and explained what he believed were the circumstances in this regard.

Consideration

6. The Tribunal observes that the present case has been pending before the Dispute Tribunal for many years, which has cost the internal justice system much

energy and resources that could otherwise have been devoted to other cases. One of the reasons is that—with no success—the parties have previously tried to settle the case informally. While recognizing that informal resolution is an important tenet of the internal justice system, the Tribunal will therefore not allow any further unnecessary delays of its deliberations.

7. The Tribunal further notes that it is trite law that time limits are to be enforced strictly (see, for instance, the Appeals Tribunal in *Ali* 2017-UNAT-773, para. 13). This also includes the time limits that the Tribunal sets in its orders.

8. Finally, in accordance with its Statute, the Tribunal's function is not to argue the cases of the parties appearing before it. In many cases, when the proceedings have ended, the Tribunal will therefore order the parties to submit their closing statement. If the Tribunal orders a party to file a closing statement, but the party does not comply with this order, the Tribunal is generally left with no other option than concluding that this party wishes to abandon its case for want of prosecution.

IT IS ORDERED THAT:

9. The Respondent's motion of 7 October 2019 is rejected;

10. By **4:00 p.m. on Wednesday, 15 October 2019**, the parties are to file a joint submission in which they indicate (a) whether the perspectives for resolving the present case informally are realistic and (b) their agreement to suspend the proceedings;

11. If the parties do not agree on suspending the case for informal settlement negotiations:

a. By **4:00 p.m. on Monday, 21 October 2019**, the Applicant is to file his closing statement, which is solely to be based on the submissions and evidence on record. The statement is to be five pages maximum, using Times

New Roman, font 12 and 1.5 line spacing. Any new submissions and/or evidence will be struck from the record;

b. By **4:00 p.m. on Monday, 28 October 2019**, the Respondent is to file his closing statement responding to the Applicant's closing statement and maximum be six pages, using Times New Roman, font 12 and 1.5 line spacing. Any new submissions and/or evidence will be struck from the record;

c. By **4:00 p.m. on Friday, 1 November 2019**, the Applicant is to file his final observations responding to the Respondent's closing statement, which is to be two pages maximum, using Times New Roman, font 12 and 1.5 line spacing. Any new submissions and/or evidence will be struck from the record.

(Signed)

Judge Joelle Adda

Dated this 10th day of October 2019