



**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:**

Elizabeth Gall, ALD/OHR, UN Secretariat

## **Introduction**

1. By Order No. 107 (NY/2019) dated 15 July 2019, the Tribunal ordered the parties to file a jointly signed statement by 3 September 2019 providing the following: (a) consolidated lists of agreed and disputed facts; (b) separate lists of additional written and oral evidence that each of the parties requested to be produced; and (c) information on whether the parties would be willing to enter into negotiations on resolving the case amicably.

2. In response to Order No. 107 (NY/2019), in the Respondent's 3 September 2019 submission, he indicated that the parties have not been able to agree to a jointly filed statement. In the Applicant's submission dated 3 September 2019, he provided a list of proposed 37 witnesses.

3. On 8 October 2019, the Applicant filed a motion for stay of the proceedings to discuss an informal settlement of the present case.

## **Consideration**

### *The issues of the present case*

4. In Order No. 107 (NY/2019), the Tribunal noted that based on the application and the Applicant's management evaluation request, the only decision under review in the present case is the decision to terminate his continuing appointment—albeit interrelated, any decision taken in the context of the performance appraisal process is an entirely different and independent decision. Accordingly, the Tribunal found that the sole substantive issue of the present case is therefore whether the decision to terminate the Applicant's continuing appointment was lawful. None of the parties has

challenged this definition of the scope of the case in their subsequent submissions. The Tribunal therefore identifies the following issues to be addressed in the present case:

- a. Was the decision to terminate the Applicant's continuing appointment lawful?
- b. If not, what relief would he be entitled to?

*The Applicant's request for calling 37 witnesses*

5. The Tribunal notes that by Order No. 107 (NY/2019), para. 12(d)(ii), if proposing any witnesses, the parties were instructed to provide "a brief statement or summary of the disputed fact(s) to be addressed by each witness". The Tribunal further observes that the Applicant in his submission dated 3 September 2019 has not provided any such statement or summary regarding any of the 37 witnesses that he proposes to be heard.

6. After closely perusing the case file, the Tribunal notes that all the written documentation on which the termination decision was based appears to have been submitted in evidence and that neither party has requested any further written documentation to be produced.

7. Considering the limited scope of the present case, the Tribunal finds that the case is fully informed and that no further evidence is necessary, also observing that the Applicant has not explained why or how the proposed witness testimonies would add anything of additional significance.

8. Accordingly, the Applicant's request for calling 37 witnesses is to be rejected.

*The Applicant's request for a stay of the proceedings*

9. Considering the lack of cooperation between the parties in responding to Order No. 107 (NY/2019) and the history of the Applicant's cases before the Dispute Tribunal, the Tribunal sees no perspective in granting leave to the Applicant's request for stay of the proceedings as the parties appear completely incapable of reaching agreement on any matters at all. A stay of the proceedings to allow for informal negotiations would therefore only unnecessarily delay the disposal of the present case.

10. The Applicant's request for a stay of proceedings is therefore to be rejected.

*Further case management*

11. In light of the above, the case therefore is ready for the parties to file their closing statements. For the fair and expeditious disposal of the case and to do justice to the parties in accordance with art. 19 of the Rules of Procedure of the Dispute Tribunal,

IT IS ORDERED THAT:

12. The Applicant's requests of 3 September and 8 October 2019 for calling 37 witnesses and for a stay of the proceedings, respectively, are rejected;

13. By **4:00 p.m. on Thursday, 19 December 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;

14. By **4:00 p.m. on Thursday, 2 January 2020**, 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;

15. By **4:00 p.m. on Thursday, 9 January 2020**, 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 29<sup>th</sup> day of November 2019