



UNITED NATIONS DISPUTE TRIBUNAL

Case Nos.: UNDT/NY/2018/011  
UNDT/NY/2018/032  
UNDT/NY/2020/008  
Order No.: 79 (NY/2020)  
Date: 22 April 2020  
Original: English

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

PAPATHANASSIOU

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Katya Melliush, OSLA

**Counsel for Respondent:**  
Chinonyelum Esther Uwazie, UNICEF

## **Introduction**

1. By Order No. 51 (NY/2020) dated 18 March 2020, the Tribunal ordered the parties as follows:

... The proceedings of the three cases listed in the present shall be consolidated to the effect that all judicial matters will be determined in the same order(s) and judgment(s) in which all three case numbers will be listed;

... By **4:00 p.m. on Monday, 20 April 2020**, the Respondent is to file the reply in Case No. UNDT/NY/2020/008.

2. On 17 April 2020, the Respondent duly filed the reply in Case No. UNDT/NY/2020/008.

## **Consideration**

3. The Tribunal notes that the administrative decision contested in Case No. UNDT/NY/2020/008, namely “[t]he decision of the [Advisory Board on Compensation Claims (“ABCC”)] to refuse [the Applicant’s] application for compensation”, for all intents and purposes supersedes the decisions challenged in Cases Nos. UNDT/NY/2018/011 and UNDT/NY/2018/032, which the Applicant describes exactly in the same manner. The evidence and facts in the three cases are therefore the same.

## *Evidence*

4. The Tribunal notes that neither party has requested production of any further evidence. According to art. 18 of the Dispute Tribunal’s Rules of Procedure, the Tribunal may, however, “order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings”.

5. In the reply, the Respondent submits that “On 9 January 2020, the Secretary to the ABCC informed [the United Nations Children’s Fund (“UNICEF”)] that the Applicant’s claim for compensation had been denied. The Secretary to the ABCC provided UNICEF with a copy of the ABCC’s recommendation approved on 6 January 2020 by the United Nations Controller, on behalf of the Secretary-General”.

6. Neither the ABCC’s recommendation, nor the Controller’s 6 January 2020 decision have, however, been appended to the reply. Also, it is not clear on what information and/or documentation the Controller based his decision. The Respondent is therefore instructed to submit this together with any other relevant information and/or documentation, such as the meeting minutes from the ABCC’s deliberations. Similarly, none of this information and/or documentation appear to have been submitted as part of the case file for UNDT/NY/2018/011, and the Respondent is also instructed to file this.

7. The Respondent further submits that “The ABCC concluded that the Applicant did not file his claim within the deadline set out in the said Appendix D to the Staff Rules. It also found that there were no exceptional circumstances to warrant a waiver of these Staff Rules. In arriving at these conclusions, the ABCC considered the report of the Applicant’s psychologist, two UNICEF security reports, the Applicant’s attendance records, and the report from the UN Division of Healthcare Management and Occupational Safety and Health (DHMOSH)”.

8. The Tribunal notes that these references are inadequate for the Tribunal to identify and assess the relevant documents and that, at least some of them, do not appear to have been submitted as part of the case records. The Respondent is therefore to produce all of the documents and/or make proper reference(s) thereto, stipulating the relevant annex number.

*Facts*

9. Furthermore, the Tribunal notes that the parties appear to disagree on most of the facts relevant to the present case.

10. In the Respondent's reply in Case No. UNDT/NY/2020/008, he indicates that he "admits the averments at paragraph 6 of the Application concerning the Applicant's service and contractual status", but further notes that "[a]ll of the Applicant's allegations are denied, except where expressly admitted in this Reply". The Respondent, however, nowhere in the reply admits any further facts listed in the application, although some of these appear to be repeated in the reply or are directly substantiated by written documentation. It is therefore not possible for the Tribunal to understand whether the Respondent agrees with or disputes all the remaining facts listed in the application and/or, at least, some of the written evidence filed by the Applicant.

11. With reference to *Noberasco* Order No. 155 (NY/2019) dated 5 November 2019, paras. 15-17, which is published on the Dispute Tribunal's website, the Tribunal notes that stipulations such as the Respondent's general denial of the Applicant's facts are entirely unhelpful to the fair and expeditious disposal of the present cases and only work to delay the proceedings, which have already been pending before the Dispute Tribunal for two years. The Tribunal further notes that art. 4 of the Code of Conduct for Legal Representatives and Litigants in person before the Dispute Tribunal regarding "basic standards" provides that:

1. Legal representatives and litigants in person shall maintain the highest standards of integrity and shall at all times act honestly, candidly, fairly, courteously, in good faith and without regard to external pressures or extraneous considerations.
2. Legal representatives and litigants in person shall act diligently and efficiently and shall avoid unnecessary delay in the conduct of proceedings.
3. Legal representatives should encourage and facilitate dialogue between the parties with a view to settling disputes in appropriate cases.

4. Legal representatives shall maintain the highest standards of professionalism and shall act in the best interests of the party they represent, subject always to upholding the interests of justice and ethical standards.

12. Accordingly, the parties are to file a jointly-signed submission in which they outline the agreed and contested facts.

13. In light thereof,

IT IS ORDERED THAT:

14. By **4:00 p.m. on Thursday, 7 May 2020**, the Respondent is to file the following written documentation:

a. The Controller's 6 January 2020 decision and the ABCC's recommendation and any other information and/or documentation based on which the Controller took his decision, together with any other relevant information and/or documentation, including the meeting minutes from the ABCC's deliberations;

b. Similar information and/or documentation for Case No. UNDT/NY/2018/011;

c. The documents for and/or proper references to, "the report of the Applicant's psychologist, two UNICEF security reports, the Applicant's attendance records, and the report from the UN Division of Healthcare Management and Occupational Safety and Health (DHMOSH)", as per the reply;

15. By **4:00 p.m. on Thursday, 4 June 2020**, the parties are to file a jointly-signed statement providing, under separate headings, the following information:

d. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning;

e. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);

16. After the abovementioned submissions have been filed, the Tribunal will consider the further handling of the proceedings.

*(Signed)*

Judge Joelle Adda

Dated this 22<sup>nd</sup> day of April 2020