		Case No.:	UNDT/NY/2019/072
		Order No.:	156 (NY/2020)
	UNITED NATIONS DISPUTE TRIBUNAL	Date:	13 October 2020
		Original:	English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

SILVA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Dorota Banaszewska, OSLA

Counsel for Respondent:
Jérôme Blanchard, UNOG/LPAS

Introduction

1.   By Order No. 131 (NY/2020) dated 1 September 2020, the Tribunal ordered the parties to file a jointly-signed statement setting out lists of agreed and disputed facts by 22 September 2020. The parties duly did so.

2.   On 7 October 2020, the Applicant filed a submission requesting leave to (a) amend her submissions on remedies and (b) respond to the Respondent's reply.

Consideration

Scope of the case

3.   The Appeals Tribunal has consistently held that the Dispute Tribunal has "the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review", and "may consider the application as a whole, including the relief or remedies requested by the staff member, in determining the contested or impugned decisions to be reviewed" (see *Fasanella* 2017-UNAT-765, para. 20).

4.   Based on the parties' submissions, the Tribunal defines, on a preliminary basis, the issues to be adjudicated upon as follows:

    a.   Was it a lawful exercise of discretion to reassign the Applicant from the Appeals and Accountability Section to the Global Strategy and Policy Division in the Office of Human Resources based, in accordance with the reply, on alleged "potential conflicts of interest"?

    b.   If not, what remedies, if any, is the Applicant entitled to?

Further case management

5.   Neither party has requested any further evidence to be produced on the substantive matters at stake, and based on the documentation on record, the Tribunal finds that this is not necessary.

6.   The Applicant has, however, requested to make further submissions on moral damages, and considering that the case has been pending since 31 July 2019 and her responses to Order No. 131 (NY/2020), the Tribunal will allow this.

7.   The Applicant has further requested that she be allowed to respond the legal submissions in the reply. The Tribunal will allow the Applicant to do so in the form of a closing statement, after which the Respondent will have the opportunity to file a response thereto, and the Applicant will then be granted the possibility of submitting her final observations.

8.   In light thereof,

IT IS ORDERED THAT:

9.   By **4:00 p.m. on Tuesday, 27 October 2020**, the Applicant is to file her closing statement, which is to be five pages maximum, using Times New Roman, font 12 and 1.5 line spacing. Aside from the Applicant's submissions pertaining to her request for moral damages, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage;

10.   By **4:00 p.m. on Tuesday, 3 November 2020**, the Respondent is to file his closing statement responding to the Applicant's closing statement at a maximum length of five pages, using Times New Roman, font 12 and 1.5 line spacing. Aside from the response to the Applicant's submissions regarding moral damages, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage;

11.   By **4:00 p.m. on Friday, 6 November 2020**, the Applicant may file a statement of any final observations responding to the Respondent's closing statement. This statement of final observations by the Applicant must be a maximum of two pages, using Times New Roman, font 12 and 1.5 line spacing. It must be solely based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage.

12.   Unless otherwise ordered, on receipt of the latest of the aforementioned statements or at the expiration of the provided time limits, the Tribunal will adjudicate on the matter and deliver Judgment based on the papers filed on record.

(Signed)

Judge Joelle Adda

Dated this 13ᵗʰ day of October 2020