



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/012
Order No.: 69 (NY/2021)
Date: 27 July 2021
Original: English

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

DESBOIS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

Julia Kyung Min Lee, OSLA
Dorota Banaszewska, OSLA

Counsel for Respondent:

Lucienne Pierre, ALD/OHR, UN Secretariat
Romy Batrouni, ALD/OHR, UN Secretariat

Introduction

1. By Order No. 51 (NY/2021) of 25 May 2021, the Tribunal authorized the testimony of five witnesses.

2. At the Tribunal's direction, on 1 July 2021, the Respondent submitted additional evidence pertaining to the investigation into the allegations of misconduct by the Applicant. The Respondent, however, objected to the order of disclosure of documents 106 to 108 of the investigation file alleging that these documents are the work product of the Office of Internal Oversight Services ("OIOS") and, therefore, privileged.

3. On 21 July 2021, the Applicant, having reviewed the newly received documents, informed the Tribunal that she did not request the hearing of any additional testimonial evidence. She further requested the admission into the record of all the new documents submitted by the Respondent.

4. The Applicant further requested the Tribunal to direct the Respondent to disclose documents 106 to 108 as, being part of the investigation file, they are relevant to the determination of the case.

5. The Applicant further requested the admission into evidence of Annex R, containing the copy of an email dated 7 November 2016. The Applicant avers that this document is relevant because it is mentioned by both the Applicant and the complainant in their OIOS interviews.

6. On 23 July 2021, the Respondent submitted documents 106 to 108 *ex parte* and requested the Tribunal to maintain the *ex parte* status of these documents. On the same

day, the Applicant filed a submission objecting to the Respondent's request to maintain documents 106 to 108 under seal.

Consideration

7. The Tribunal grants the Applicant's request for admission of the new documents submitted by the Respondent as well as Annex R.

8. With respect to documents 106 to 108, the Tribunal has perused these documents and notes that they are indeed not relevant to the case. Therefore, the Tribunal will not rely on them for its determination of the case and their filing *ex parte* does not violate the Applicant's due-process rights.

9. The Tribunal further notes that the Applicant does not request any further testimonial evidence and, pursuant to Order No. 51 (NY/2021), it will hold a hearing to gather the following witnesses' testimony: the Applicant, EK, CZ, MK and SK.

10. Due to scheduling conflicts, the Tribunal will be unable to hold a hearing in this case in the month of September 2021. Therefore, it directs the parties to inform it of their preference for the holding of a three-day hearing between the dates of 16 and 27 August 2021 or between 4 and 15 October 2021.

11. In light of the above,

IT IS ORDERED THAT:

12. The Applicant's requests for admission of documents into the record are granted.

13. The Tribunal will hold a three-day hearing between the dates of 16 and 27 August 2021 or between 4 and 15 October 2021 to hear evidence from the Applicant, EK, CZ, MK and SK.

14. By **4:00 p.m. on Friday, 6 August 2021**, the parties will inform the Tribunal by email to the New York Registry of their preference for either of the above-mentioned set of dates.

15. The Tribunal will thereafter issue the relevant instructions for the scheduling of the hearing.

(Signed)

Judge Joelle Adda

Dated this 27th day of July 2021