



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/004  
Order No.: 002 (NY/2022)  
Date: 5 January 2022  
Original: English

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

EGIAN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**  
**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Robbie Leighton, OSLA

**Counsel for Respondent:**  
Isavella Maria Vasilogeorgi, ALD/OHR, UN Secretariat  
Lucienne Pierre, ALD/OHR, UN Secretariat

## **Introduction**

1. On 27 January 2021, the Applicant filed an application contesting the decision to impose the disciplinary measures of written censure and loss of two steps in grade for misconduct.

2. On 26 February 2021, the Respondent filed his reply submitting that the contested decision was in compliance with the applicable legal norms. The Respondent stated that the established facts in the case constitute misconduct, and the sanction imposed on the Applicant was proportionate.

3. By Order No. 106 (NY/2021) dated 10 November 2021, the Tribunal ordered, *inter alia*, the parties to file submissions on whether they request a hearing in this case and what additional evidence, if any, is to be produced.

4. On 29 November 2021, the parties duly filed their submissions informing the Tribunal that they did not request a hearing in this matter and that the case could be adjudicated on the papers.

5. In her 29 November 2021 submission, the Applicant requested an order for disclosure of “of any and all communications or documents relating to this case and in particular the establishment of terms of reference for the Investigation Panel”. additional evidence. The Applicant submitted that “[t]his [...] include[s] any communications between the Executive Officer, the Under-Secretary-General, Political and Peacebuilding Affairs, the Investigation Panel and anyone else involved

in their work. This information is required to establish how it was that they came to investigate the recruitment of [VR] as a misuse of UN resources”.

6. By Order No. 116 (NY/2021) dated 2 December 2021, the Tribunal denied the Applicant’s disclosure request on the basis that it was cast in the most general terms and constituted an impermissible “fishing expedition.” Furthermore, the Tribunal found that the Applicant’s request referred to matters which were not relevant to the case, noting that the Administration dropped the allegations against the Applicant in relation to the referred recruitment exercise. However, the Tribunal allowed the Applicant a further opportunity to state whether she still requests disclosure of certain relevant documents and if so, the specific reasons for her request.

7. Pursuant to Order No. 116 (NY/2021), on 10 December 2021 the Applicant filed a second request for disclosure of documents.

8. On 17 December 2021, the Respondent filed a submission opposing the Applicant’s request for disclosure.

### **Consideration**

9. In her request, the Applicant seeks an order for disclosure of “the terms of reference for the Investigative Panel, any communication or document relating to the selection and appointment of the Panel, the instructions provided to the Panel and to the drafting of those terms of reference”. This Applicant submits that this evidence is relevant to assessing the extent to which the identified conflicts of interest may have impacted on the Panel themselves and the investigative process more broadly.

10. The Respondent submits that the Applicant's request should be denied for two reasons. First, the Applicant fails to comply with Order No. 116 (NY/2021), in that the Applicant has not identified specific documentation to be disclosed, or specific disputed facts that such documentation would corroborate. Second, the Respondent submits that the requested documents have already been provided to the Applicant.

11. Having reviewed the record, the Tribunal finds that the Investigative Panel's terms of reference, documents relating to the selection and appointment of the two Panel members, and the instructions given to the Panel are already in evidence as part of the annexes to both the application and reply. The Applicant indeed fails to address this.

12. In her request, the Applicant relies on *Reilly* Order No. 43 (GVA/2019). In *Reilly*, the Tribunal ordered the disclosure of documents that would otherwise not be made available to the applicant, since the applicant in that case had participated in the investigation as the complainant/witness and thus had limited access to the investigative/disciplinary record. The Applicant's reliance on *Reilly* is misplaced. *Reilly* is distinguishable from the present case, where the Applicant was the subject of the investigative and disciplinary processes and thus had a due process right to receive all supporting documents relating to her case.

13. Based on the above, the Tribunal finds no basis to grant the order the Applicant seeks.

IT IS ORDERED THAT:

14. The Applicant's request for disclosure is denied.

15. The Tribunal will proceed to adjudicate the case on the papers before it, as requested by the parties.

*(Signed)*

Judge Joelle Adda

Dated this 5<sup>th</sup> day of January 2022