



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/015

Order No.: 036 (NY/2022)

Date: 29 March 2022

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

HAMAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON MOTION FOR EXTENSION OF
TIME TO FILE AN APPLICATION**

Counsel for Applicant:
Setondji Roland Adjovi

Counsel for Respondent:
UN Secretariat

Introduction

1. On 28 March 2022, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of the imposition of disciplinary sanction.

Factual background

2. By letter dated 6 January 2022, the Applicant was imposed the disciplinary sanction.

3. On 28 March 2022, the Applicant, through his Counsel, filed a motion for extension of time to file an application, requesting the Tribunal to extend the deadline until 6 May 2022.

Considerations

4. Article 8.3 of the Dispute Tribunal's Statute provides that the Dispute Tribunal "may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases". Article 7.5 of the Dispute Tribunal's Rules of Procedure reiterates that in exceptional cases an applicant may request a suspension, waiver or extension of the time limits for filing an application. Article 7.5 further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.

5. In *Gelsei* 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then an applicant bears the burden to prove "any circumstances beyond [her/his] control that would have the effect of preventing him from acting within the statutory time limits" (para. 30). The Appeals Tribunal stated that the circumstances should meet "the test of untypicality or unusualness" (para. 34).

6. In this case, the Applicant submits that once he was notified of the disciplinary sanction, he sought the support of the Staff Union and the Office of Staff Legal Assistance (“OSLA”), but the dialogues did not lead to any positive commitment. Furthermore, the Applicant submits that he has undergone two major surgeries that affected his ability to read and to focus for long periods. As supporting evidence, the Applicant submits a medical report from his treating doctor certifying that he had two major surgeries in January and February 2022 that impacted his ability to read and focus over several weeks.

7. The Tribunal finds that the Applicant showed exceptional circumstances that justify the extension of the time limit. The Tribunal is satisfied that the evidence provided shows that for several weeks, the Applicant was unable to work or effectively assist counsel in his case. Therefore, the Applicant’s request is granted.

8. The Tribunal notes that the Applicant seeks to file his medical report *ex parte*. However, since this document was taken into consideration for the determination of this motion, the Tribunal must disclose this medical report to the Respondent under seal. All parties are reminded that its contents should be kept confidential.

IT IS ORDERED THAT:

9. The Applicant’s motion for extension of time to file an application is granted, and the Applicant shall file his application by **4:00 p.m. on Friday, 6 May 2022**;

10. The Applicant’s request for filing of the medical report *ex parte* is denied.

(Signed)

Judge Joelle Adda

Dated this 29th day of March 2022