



**Before:** Judge Francis Belle

**Registry:** New York

**Registrar:** Pallavi Sekhri, Officer-in-Charge

BARBULESCU

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Dorota Banaszewska, OSLA

**Counsel for Respondent:**

Clémentine Foizel, AAS/ALD/OHR, UN Secretariat

## **Introduction**

1. By application filed on 23 September 2021, the Applicant, a staff member of the Department of Management Strategy, Policy and Compliance (“DMSPC”), contests the decision of the Administration not to grant her maternity leave or, alternatively, special leave with full pay (“SLWFP”), for a period of 14 weeks following the birth of her daughter on 27 February 2021.
2. On 14 October 2021, the Respondent filed a motion, requesting the Tribunal to enforce Practice Direction No. 4 on “Filing of Applications and Replies” on the grounds that the application is six pages longer than required.
3. By email dated 25 October 2021, the Tribunal decided to allow the application as filed due to the formatting used by the Applicant and the complexity of the matter.
4. On 25 October 2021, the Respondent filed his reply.
5. On 1 July 2022, the present case was assigned to the undersigned Judge.

## **Consideration**

6. Having reviewed the parties’ submissions, the Tribunal notes that one main issue before it is the interpretation of staff rule 6.3(a), which provides in its relevant part as follows:

(a) Subject to conditions established by the Secretary-General, a staff member shall be entitled to maternity leave for a total period of 16 weeks:

(i) The pre-delivery leave shall commence no earlier than six weeks and no later than two weeks prior to the anticipated date of birth upon production of a certificate from a duly qualified medical practitioner or midwife indicating the anticipated date of birth;

(ii) The post-delivery leave shall extend for a period equivalent to the difference between 16 weeks and the actual period of pre-delivery leave, subject to a minimum of 10 weeks[.]

7. While the Staff Regulations and Rules of the United Nations is not a treaty, the Tribunal recognizes that art. 31.1 of the Vienna Convention on the Law of Treaties (“VCLT”) sets forth generally accepted rules for interpreting an international document, which refers to interpretation according to the “ordinary meaning” of the terms “in their context and in the light of its object and purpose” (see e.g., UN Administrative Tribunal Judgment No. 942, *Merani* (1999), para. VII; *Avognon et al.* UNDT/2020/151, para. 50; *Applicant* UNDT/2021/165, para. 37).

8. The Tribunal considers it appropriate and in the interest of justice to direct the Respondent to provide his interpretation of staff rule 6.3(a), in particular, its chapeau, in accordance with art. 31.1 of the VCLT.

9. In accordance with the principle of equality of arms, the Tribunal also gives the Applicant an equal opportunity to respond to the Respondent’s submission.

10. Pursuant to art. 19 of the Tribunal’s Rules of Procedure,

IT IS ORDERED THAT:

11. By **Tuesday, 2 August 2022**, the Respondent file his submission pursuant to para. 8 above.

12. By **Tuesday, 16 August 2022**, the Applicant file her comments, if any, on the Respondent’s submission.

(Signed)

Judge Francis Belle

Dated this 19<sup>th</sup> day of July 2022