



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/001

Order No.: 081 (NY/2022)

Date: 9 September 2022

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Morten Albert Michelsen, Officer-in-Charge

PUMPYANSKAYA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Robbie Leighton, OSLA

Counsel for Respondent:
Lucienne Pierre, AAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 057 (NY/2022) dated 29 June 2022, the Tribunal ordered: (a) the parties to jointly file consolidated lists of agreed and disputed facts; (b) each party to file submissions on possible additional evidence; and (c) the Respondent to file his submissions on the Applicant's 5 January 2022 motion for disclosure of some written documentation.

2. The parties duly filed their submissions within the given time limit of 25 July 2022.

Consideration

Additional evidence

Witnesses at a hearing

3. Regarding the possibility of calling witnesses to a hearing, the Applicant contends that without having perused the written documentation that she requested to be disclosed in her 5 January 2022 motion for disclosure, it is difficult for her to ascertain the need therefor. The Respondent submits that he does not intend to call any witnesses and that a hearing is not required.

Disclosure of further documentation

4. As for the Applicant's 5 January 2022 motion for disclosure, the Respondent identifies the following disclosure requests included therein (all names redacted for privacy reasons):

- a. Documents created in the predication process which would indicate the date upon which a decision to either investigate or not investigate was taken;

- b. Notice to AJ that he was subject to investigation;
- c. The closure report created by the Office of Internal Oversight Services (“OIOS”);
- d. A screenshot of the OIOS case log indicating the documents created during this investigation;
- e. Documents created during the predication process which memorialize the decision not to investigate the Applicant’s complaints regarding MF and EC;
- f. The closure report in relation to misuse of information technology resources;
- g. Actual documents removed from her account by AJ and shared with EC.

5. The Respondent, in essence, submits that the Applicant is not entitled to access to any of the stated disclosures and thereby gain access to “privileged work product information regarding OIOS’s deliberative processes; information to which she is not entitled to under the UN Regulations and Rules”. The Respondent further observes that “[t]o the extent the Applicant’s disclosure requests are an effort to understand the reason the contested decision was made, such reasons were provided to her in the memo from OIOS dated 9 July 2021” and his reply. The Respondent also indicates that he does not request any additional information be disclosed.

6. Before deciding upon the Applicant’s motion for disclosure, the Tribunal will therefore allow her to comment on the Respondent’s submissions. If the Applicant disagrees with the Respondent’s identification of her disclosure requests as per the above, the Tribunal instructs the Applicant to list her disclosure requests in a structured and organized manner by which it is evident what written documentation she seeks disclosure of.

7. In light of the above,

IT IS ORDERED THAT:

8. By **4:00 p.m. on Monday, 10 October 2022**, the Applicant is to file her final comments on the Respondent's submissions concerning her 5 January 2022 motion for disclosure.

(Signed)

Judge Joelle Adda

Dated this 9th day of September 2022