



UNITED NATIONS DISPUTE TRIBUNAL

Cases Nos.: UNDT/NY/2021/021/R1  
UNDT/NY/2021/024/R1  
Order No.: 104 (NY/2022)  
Date: 15 November 2022  
Original: English

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**Before:** Judge Joelle Adda  
**Registry:** New York  
**Registrar:** Morten Albert Michelsen, Officer-in-Charge

OVCHARENKO ET AL.  
KUTNER ET AL.

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**  
George Irving

**Counsel for Respondent:**  
Lucienne Pierre, ALD/AS/OHR, UN Secretariat  
Jenny Kim, ALD/AS/OHR, UN Secretariat

## **Introduction**

1. By Order No. 090 (NY/2022) dated 30 September 2022, the Tribunal ordered the Respondent to file his replies in both cases by 31 October 2022, addressing: (a) the merits of the two cases, and (b) the issue of joining the two cases under one case number.
2. On 31 October 2022, the Respondent filed the replies.

## **Consideration**

### *Joining the two cases*

3. In the application of *Kutner et al.*, the Applicant requested that the two cases be joined “[i]n light of the identical pleadings”. In line herewith, when adjudicating on the Dispute Tribunal’s findings of non-receivability, the Appeals Tribunal joined the two cases before the Dispute Tribunal under the same Case No. 2021-1605 and only issued one and the same judgment in *Ovcharenko et al. Kutner et al.* 2022-UNAT-1262.
4. Despite the Tribunal’s explicit order for the Respondent to file his submissions on this matter in his replies, he did not do so. The Tribunal regards this omission as the Respondent, at minimum, agreeing to the two cases being handled together, also noting that the two cases indeed concern the same issue(s).
5. Accordingly, for efficiency purpose and to do justice to the parties, Case Nos. UNDT/NY/2021/021/R1 and UNDT/NY/2021/024/R1 are to be handled together. This means that whereas the two case numbers will remain with each of the cases, the Tribunal will adjudicate the issue(s) before it in only one judgment.

*Further case management*

6. The Tribunal notes that the cases are fully briefed, and the parties do not request any further evidence to be produced. The case may therefore be determined on the basis of the documents on record.

7. However, the Tribunal deems it appropriate to afford the Applicant an opportunity to respond to the Respondent's replies.

8. In light thereof,

IT IS ORDERED THAT:

9. Case Nos. UNDT/NY/2021/021/R1 and UNDT/NY/2021/024/R1 are handled together and only one judgment is to be issued;

10. By **4:00 p.m. on Tuesday, 29 November 2022**, the Applicants may submit a response to the Respondent's reply. The submission shall not exceed five pages, using Times New Roman, font 12 and 1.5 line spacing.

11. Upon receipt of the Applicants' submissions, unless instructed otherwise, the Tribunal will proceed to adjudicate this matter on the papers before it.

*(Signed)*

Judge Joelle Adda

Dated this 15<sup>th</sup> day of November 2022