



Before: Judge Francis Belle

Registry: New York

Registrar: Isaac Endeley

DRAGNEA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Michael Horn, Archer & Greiner, PC

Counsel for Respondent:

Yehuda Goor, AAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 2 (NY/2023) of 9 January 2023, the Tribunal instructed the parties, *inter alia*, to file their respective written closing submissions, which they did on 16 January 2023.
2. On 16 January 2023, the Applicant filed a motion to “expand the record” in which she asked the Tribunal to consider “recent evidence related to the deleterious consequences of the [Notice of Reprimand (‘NOR’)]”.
3. On 18 January 2023, the Tribunal invited the Respondent to provide his comments on the Applicant’s motion to “expand the record”, which he did on 23 January 2023.
4. By Order No. 4 (NY/2023) of 26 January 2023, the Tribunal granted the Applicant’s motion to expand the record and informed the parties that it would proceed to adjudicate the matters by Judgment.
5. On 4 February 2023, the Applicant filed a motion for a directive under Report A/73/150 of the Internal Justice Council, informing the Tribunal, *inter alia*, that she has been a victim of retaliation for seeking recourse through the internal justice system and requesting the Tribunal to address her concerns the way it deems necessary.
6. On 8 February 2023, the Tribunal invited the Respondent to provide his comments on the Applicant’s motion, which he did on 10 February 2023.

Consideration

7. In support of her motion, the Applicant submits that the recent investigation against her is in retaliation for her availing of the internal justice system and exposing the management’s misconduct. She specifically argues that the fact that an investigation was launched only days after she submitted her closing statement in this present case is strong evidence that it is being done to retaliate against the Applicant for asserting her case before this Tribunal.

8. Above all, the Tribunal recalls that under sec. 6.1 of ST/SGB/2017/2/Rev. 1 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations), individuals who believe that retaliatory action has been taken against them because they have engaged in a protected activity – having reported misconduct or having cooperated with duly authorized audits or investigations – may submit a request for protection against retaliation to the Ethics Office. As such, the Tribunal does not find it necessary to address the Applicant’s submission in this respect.

9. Moreover, while the Tribunal acknowledges that it has “a duty to protect witnesses and parties from harassment and bullying during Tribunal proceedings” (see *Haroun* 2019-UNAT-909, para. 36), it finds that the Applicant failed to demonstrate that there was a genuine connection between asserting her case before this Tribunal and the initiation of a fact-finding investigation into allegations of unsatisfactory conduct against her.

10. The Tribunal further finds no *prima facie* evidence, at this stage, that litigating before the Tribunal was a contributing factor in causing the alleged retaliation. Indeed, the evidence on record shows that the investigation against the Applicant is based on a separate set of facts and thus has nothing to do with her asserting this case before the Tribunal.

11. Accordingly, the Tribunal finds no basis to grant the Applicant’s motion.

12. Nevertheless, the Tribunal wishes to reiterate that “managers have an obligation to refrain from, and protect staff against, retaliation. Retaliation against litigants and witnesses amounts to an abuse of authority, which constitutes misconduct that must be addressed and sanctioned, in line with the relevant Staff Regulations and Rules” (see *Haroun*, para. 36).

13. Having said the above, the Tribunal wishes to inform the parties that the pleadings in this matter are closed, and no further submissions will be entertained.

Conclusion

14. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant's motion is denied; and
- b. The Tribunal will proceed to adjudicate the matter by Judgment.

(Signed)

Judge Francis Belle

Dated this 15th day of February 2023