



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/058

Order No.: 053 (NY/2023)

Date: 11 July 2023

Original: English

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**Before:** Duty Judge

**Registry:** New York

**Registrar:** Isaac Endeley

SCHIFFERLING

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Cristian Gimenez Corte

**Counsel for Respondent:**

Casey Morin, UNOPS

## **Introduction**

1. On 15 December 2022, the Applicant, a former staff member in the United Nations Office for Project Services based in New York, filed an application in which he contests the “decision to charge the Applicant with misconduct”.
2. On 16 January 2023, the Respondent filed a reply submitting that the application is not receivable and, in any event, has no merit.

## **Consideration**

3. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue an order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.
4. Having taken into consideration the pleadings of the parties, in preparing the case for the Judge to be assigned to the present case, the Duty Judge finds that the Applicant should be given an opportunity to respond to the Respondent’s reply, in particular to the contentions concerning the receivability of the application.
5. In addition, the Applicant should state whether he wishes further documentation to be produced. The Tribunal notes that the very purpose of producing evidence—written or oral—is to substantiate the specific relevant facts on which the parties disagree. Accordingly, there is, in essence, only a need for evidence if a fact is relevant and disputed (in line herewith, see *Abdellaoui* 2019-UNAT-929, para. 29, and *El-Awar* 2019-UNAT-931, para. 27).
6. Accordingly, if the Applicant requests the production of further evidence, he is to specifically refer to the relevant documentation/witness and clearly indicate what disputed fact the relevant evidence is intended to corroborate. In this regard, the Tribunal notes that the Appeals Tribunal has prohibited a so-called “fishing expedition”, whereby one party requests the other party to produce evidence in “the most general terms” (see, for instance, *Rangel* Order No. 256 (2016)). A party

requesting certain evidence must therefore be able to provide a certain degree of specificity to her/his request.

7. Regarding oral evidence, the Tribunal further notes that arts. 16.1 and 2 of the Rules of Procedure provide that “[t]he judge hearing a case may hold oral hearings”, and whereas “[a] hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure”, the present case does not concern such matter. It therefore follows that it is for the assigned Judge to determine whether a hearing is necessary, and if a party requests to hear a specific witness, whether to admit her/his proposed oral evidence and thereby allow her/his testimony at a hearing.

**IT IS ORDERED THAT:**

8. By 4:00 p.m. on Tuesday, 15 August 2023, the Applicant shall file a rejoinder to the Respondent’s reply, which shall not exceed five pages, using Times New Roman, font 12 and 1.5 line spacing, in which he is to:

- a. Respond to the contentions included in the reply, in particular those concerning the receivability of the application, and
- b. Indicate whether he wishes to adduce any further evidence, and if so, state:
  - i. What additional documentation he requests to be disclosed, also indicating what fact(s) this is intended to substantiate; and/or
  - ii. The identity of the witness(es) he wishes to call, and what disputed fact(s) each of these witnesses is to give testimony about, also setting out the proposed witness’s testimony in writing. This written

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witness statement may also be adopted as the examination-in-chief at a potential hearing if the party leading the witness should wish to do so.

*(Signed)*

Judge Joelle Adda

Dated this 11<sup>th</sup> day of July 2023

Entered in the Register on this 11<sup>th</sup> day of July 2023

*(Signed)*

Isaac Endeley, Registrar, New York