



**Before:** Duty Judge  
**Registry:** New York  
**Registrar:** Isaac Endeley

FUSCO

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**  
Robbie Leighton, OSLA

**Counsel for Respondent:**  
Alister Cumming, UNICEF

## **Introduction**

1. The Applicant, a former staff member with UNICEF, filed an application on 16 March 2023 contesting the decision to separate him “by termination without applying appropriate priority consideration for suitable available posts”. He also contests the decision not to select him for the post of Director, Brussels Office, Public Partnership Division (“PPD”), for which he applied.

2. On 17 April 2023, the Respondent filed a reply challenging the receivability of the application and arguing that “the Applicant failed to submit a timely request for management evaluation”. The Respondent also filed submissions on the merits.

## **Considerations**

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 reviewed the parties’ submissions, the Duty Judge considers that it is necessary to give the Applicant the opportunity to respond to the Respondent’s submissions on the matter of receivability as well as on the merits of the application.

5. Regarding the contested non-selection decision, the Applicant also “seeks disclosure of documentation to demonstrate exactly when all [candidates’] applications were released to the hiring manager, when the Applicant and other candidates were called for assessment, when mechanisms for scoring assessments were established and the review of the Applicant’s assessment performance”. However, the Duty Judge considers that the relevant information is contained in annex R/4 to the Respondent’s reply. Accordingly, there is no need to order any further disclosure on this matter at this stage.

6. Moreover, the Duty Judge is of the view that although the application does not include information on the post of Principal Adviser, at the P-6 level, for which the Applicant applied on 20 May 2022, nor on the five posts in the 2023 Senior Staff Rotation and Reassignment Exercise (“SSRRE”) for which the Applicant expressed interest on 11 August 2022, knowing the outcome of the selection

processes for those posts would be useful to the Tribunal in determining the present case. Therefore, the Duty Judge will instruct the Respondent to provide, with appropriate redactions, the selection panel's report for the post of Principal Adviser, at the P-6 level, and an update on the five posts in the 2023 SSRRE for which the Applicant expressed interest.

7. The Judge to whom the case will be assigned will subsequently make a determination on the receivability and the merits of the application.

IT IS ORDERED THAT:

8. On or before **1 September 2023**, the Applicant shall file a response to the Respondent's submissions on receivability and on the merits of the application.

9. The response shall be no more than **five pages** long, using Times New Roman, font 12 and 1.5 line spacing.

10. On or before **18 August 2023**, the Respondent shall file, with appropriate redactions, the report of the selection panel for the post of Principal Adviser, at the P-6 level, for which the Applicant applied on 20 May 2022 and an update on the five posts in the 2023 SSRRE for which the Applicant expressed interest.

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11. Unless otherwise ordered, the Tribunal will thereafter decide the case on the papers before it.

*(Signed)*

Judge Joelle Adda

Dated this 26<sup>th</sup> day of July 2023

Entered in the Register on this 26<sup>th</sup> day of July 2023

*(Signed)*

Isaac Endeley, Registrar, New York