



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

HAMAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Setondji Roland Adjovi

Counsel for Respondent:

Miryoung An, DAS/ALD/OHR/UN Secretariat

Isavella Maria Vasilogeorgi, DAS/ALD/OHR/UN Secretariat

Introduction

1. On 6 May 2022, the Applicant, a former staff member of the Office of the Special Adviser on Africa (“OSAA”), filed an application contesting the decision to impose on him a disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.

2. The Respondent filed a reply on 3 June 2022 submitting that the contested decision was lawful.

3. On 5 July 2023, by Order No. 050 (NY/2023), the Tribunal ordered the parties *inter alia* to file by 7 August 2023 a jointly-signed statement providing a consolidated list of agreed facts and a consolidated list of disputed facts.

4. On 7 August 2023, the Respondent filed a submission informing the Tribunal that the parties were not able to comply with Order No. 050 (NY/2023) stating that “despite taking efforts, [...] the Respondent could not obtain the information, e.g., reasons for contesting the disputed facts, that is necessary for a joint statement required by the Order. Nevertheless, in the course of his efforts, the Respondent became aware of the Applicant’s disagreement to the entire set of facts that the Respondent relied upon in reaching the contested disciplinary decision. In this regard, the Respondent submits, albeit not jointly, a consolidated list of disputed facts, complying with the Order to the extent possible”. The Respondent provided copies of the relevant correspondence between the parties.

5. On the same day the Applicant filed a submission stating *inter alia* that “the Applicant could not reach any agreement with the Respondent and this means that everything is in dispute” and requesting the Tribunal to hold a case management conference to discuss the way forward.

Considerations

6. Upon review of the parties’ filings, the Tribunal finds that the Applicant provides no valid reasons for his failure to comply with Order No. 050 (NY/2023). The Tribunal notes that the correspondence between the parties indicates that the Respondent’s Counsel acted in a timely manner and made good faith efforts to

engage and cooperate with the Applicant's Counsel. The record indicates that the Applicant's Counsel has unreasonably refused to cooperate with the Respondent's Counsel and this is the reason for the parties' failure to comply with Order No. 050 (NY/2023).

7. The Tribunal instructed the parties to file a routine joint submission which will assist the Tribunal in adjudicating the case. The Tribunal finds the Applicant's arguments as to why he could not comply with Order No. 050 (NY/2023) without merit. There are no compelling reasons to hold a case management discussion at this stage. The Tribunal redirects the parties to comply with Order No. 050 (NY/2023) and on exceptional basis will grant the parties further time to make the required submission. The Appeals Tribunal has stated that "[p]roper observance must be given to judicial orders. The absence of compliance may merit contempt procedures" (see *Igunda* 2012-UNAT-255).

8. 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.

IT IS ORDERED THAT:

9. By **Friday, 29 September 2023**, the parties are to file a jointly-signed statement providing, under separate headings, the following information:

a. A consolidated list of agreed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary and/or oral evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);

b. A consolidated list of disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary and/or oral

evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s).

10. No further filings are to be made by either party without prior leave of the Tribunal.

(Signed)

Judge Joelle Adda

Dated this 17th day of August 2023

Entered in the Register on this 17th day of August 2023

(Signed)

Isaac Endeley, Registrar, New York