



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/003
Order No.: 079 (NY/2023)
Date: 11 September 2023
Original: English

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

GARCIA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Halil Goksan, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 051 (NY/2023) dated 6 July 2023, the Tribunal provided the following orders (emphasis in original):

... The Applicant and Counsel for the Respondent are to confer with a view to resolving the matters in this case informally.

... By **4:00 p.m. on Thursday, 27 July 2023**, the parties are to file a jointly-signed statement informing the Tribunal whether they agree to attempt informal resolution. If so, they may request a suspension of the proceedings.

... If the parties do not agree to attempt informal resolution, by **4:00 p.m. on Thursday, 10 August 2023**, the Applicant shall file a rejoinder to the Respondent's reply.

2. On 27 July 2023, the Respondent replied to Order No. 051 (NY/2023), advising that “[b]y emails of 12 and 19 July 2023, the Respondent inquired whether the Applicant would be available for an informal discussion with respect to the Tribunal’s instructions, but received no response”. In view thereof, the Respondent requested the Tribunal “to proceed with the adjudication of the case”.

3. After also not receiving the Applicant’s rejoinder by 10 August 2023 as instructed in Order No. 051 (NY/2023), on 24 August 2023, the New York Registry of the Dispute Tribunal emailed the Applicant to ensure that she was the correct applicant of the present case.

4. On 28 August 2023, the Registry called the Applicant and left her a voicemail in which it requested her to file a response to Order No. 051 (NY/2023).

5. On 29 August 2023, the Applicant emailed the Registry to state that she was out on annual leave and would only return on 5 September 2023.

6. By email of the same date (29 August 2023), the Registry responded and informed the Applicant that the Tribunal works on very tight deadlines and that she should file a request for extension of time if she needed this. The Applicant was further requested to respond to Order No. 051 (NY/2023) immediately and provide a justification for her delay.

Consideration

7. The Dispute Tribunal has endorsed the principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action and that access to the Dispute Tribunal has to be denied to those who are no longer in need of judicial remedy, or no longer interested in the proceedings (see, for instance, *Bimo and Bimo* UNDT/2009/061, *Saab-Mekkour* UNDT/2010/047, *Zhang-Osmancevic* UNDT/2015/034, and *Acquatella Corrales* UNDT/2020/042).

8. If an applicant does not respond to the Tribunal's orders, the Tribunal may therefore dismiss the applicant's case for want of prosecution (see, for instance, *Acquatella Corrales*).

9. The Tribunal takes note that to this date, the Applicant has not responded to Order No. 051 (NY/2023) despite various requests from the Registry for her to do so. This Tribunal will therefore restate the orders made in Order No. 051 (NY/2023) with new deadlines, noting that failure to comply therewith may result in the dismissal of the case for want of prosecution.

10. In light of the above,

IT IS ORDERED THAT:

11. The Applicant and Counsel for the Respondent are to confer with a view to resolving the matters in this case informally.

12. By **4:00 p.m. on Monday, 25 September 2023**, the parties are to file a jointly-signed statement informing the Tribunal whether they agree to attempt informal resolution. If so, they may request a suspension of the proceedings.

13. If the parties do not agree to attempt informal resolution, by **4:00 p.m. on Monday, 2 October 2023**, the Applicant shall file a rejoinder to the Respondent's reply.

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14. The Applicant's failure to comply with the present Order may result in the dismissal of the case for want of prosecution.

(Signed)

Judge Joelle Adda

Dated this 11th day of September 2023

Entered in the Register on this 11th day of September 2023

(Signed)

Isaac Endeley, Registrar, New York