



**Before:** Judge Rachel Sophie Sikwese

**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. By Order No. 122 (NY/2023) dated 2 November 2023, the Tribunal granted, in part, the Applicant's oral motion for disclosure and instructed the Respondent to file documentation specifically regarding priority consideration for the Applicant who was facing termination; and regarding the Applicant's participation in the Senior Staff Rotation and Reassignment Exercise ("SSRRE").
2. On 10 November 2023, the Respondent complied with Order No. 122 and provided information related to 11 positions in which the Applicant had expressed an interest or for which he had applied. The Respondent also moved the Tribunal to order the Applicant to file information related to his income since his separation from the Organization and to provide clarification on the remedies he was seeking.
3. Via Order No. 128 (NY/2023) of 13 November 2023, the Tribunal granted the Respondent's motion and instructed the Applicant to provide the requested information. The Applicant complied with the order on 20 November 2023, providing documentation on his income since his separation from the Organization and clarifying the forms of relief he was seeking.
4. The parties filed their respective closing submissions on 1 December 2023 as instructed in Order No. 122.
5. On reviewing the Applicant's closing submissions, the Tribunal has noted the following request contained at para. 24:

Finally, the Respondent's list is incomplete. The Applicant applied for a post as Deputy Director IT in Valencia on 30 November 2022 only four weeks prior to his separation. That this application was not listed among those referenced by the Respondent makes it clear he was not provided priority consideration against this suitable available vacant post. The Applicant respectfully seeks leave to submit evidence of this application (Annex 43 and 44).

6. In essence, the Applicant's contention is that the Respondent failed to include, in his submission of 10 November 2023, important information related to one of the posts for which the Applicant had applied prior to separating from the Organization.

### **Considerations**

7. Pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure, on case management, the Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

8. The Tribunal is of the view that the Applicant's request to submit further evidence on a suitable available post is a material fact for consideration in this case. Accordingly, an explanation from the Respondent is warranted before the case is adjudicated. The Applicant is advised to confirm that he has attached Annexes 43 and 44 as alluded to in his submission and make necessary corrections if not, for orderliness.

9. In light of the foregoing,

IT IS ORDERED THAT:

10. **By 4:00 p.m. on Wednesday, 13 December 2023**, the Respondent shall file any comments he may have in relation to the Applicant's application dated 30 November 2022 for the post of "Deputy Director IT in Valencia". The comments shall not exceed three pages, using font Times New Roman, font size 12 and 1.5 line spacing.

*(Signed)*

Judge Rachel Sophie Sikwese

Dated this 6<sup>th</sup> day of December 2023

Entered in the Register on this 6<sup>th</sup> day of December 2023

*(Signed)*

Isaac Endeley, Registrar, New York