



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/019

Order No.: 041 (NY/2024)

Date: 4 April 2024

Original: English

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**Before:** Judge Margaret Tibulya

**Registry:** New York

**Registrar:** Isaac Endeley

O'MULLANE

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:**

Lucienne Pierre, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. On 9 July 2023, the Applicant filed the application.
2. On 18 July 2023, the Respondent filed a motion to have the receivability of the application determined as a preliminary matter. The Respondent also requested the Tribunal to suspend the deadline for the filing of his reply, pending the Tribunal's determination of the motion.
3. By Order No. 058 (NY/2023) dated 19 July 2023, the Duty Judge granted the Respondent's request to suspend the deadline for the filing of his reply and ordered the Applicant to file a response to the Respondent's motion on receivability.
4. On 4 August 2023, the Applicant filed a response opposing the motion.
5. On 5 September 2023, the Applicant filed a motion purporting to present "further new facts and further instances of retaliation".
6. On 26 September 2023, the Applicant filed a motion for interim measures pending proceedings.
7. On 28 September 2023, the Respondent filed a response to the Applicant's motion for interim measures.
8. By Order No. 097 (NY/2023) dated 3 October 2023, the Duty Judge rejected the Applicant's motion for interim measures.
9. This case was assigned to the undersigned Judge on 1 April 2024.
10. On 3 April 2024, the Tribunal conducted a case management discussion ("CMD") with the parties and their legal representatives.

## **Considerations**

11. The following matters were discussed at the CMD:

### *Respondent's motion on receivability*

12. The Respondent requested the Tribunal to determine the issue of the receivability of the application as a preliminary matter, and summarily dismiss the Application if it finds that it is not receivable.

13. The Applicant, however, requested the Tribunal to reject the motion on receivability and determine the case on its merits, arguing that the issue of the receivability of the Application should be determined in the final judgment.

14. The Tribunal recalls that under the jurisprudence of the Appeals Tribunal, the Dispute Tribunal is required to satisfy itself that an application is receivable under art. 8 of its Statute (see, for instance, *O'Neill* 2011-UNAT-182, as affirmed in *Christensen* 2013-UNAT-335, and *Barud* 2020-UNAT-998).

15. Consequently, the Tribunal will grant the Respondent's motion and will proceed to determine the receivability of the application as a preliminary matter.

### *Applicant's request for interim measures pending proceedings.*

16. The Applicant submitted that on 26 September 2023, he filed a motion requesting the Tribunal to issue an order preventing the Controller and the Chief Information Technology Officer from taking "any further retaliatory actions against him". He stated that the motion was still pending before the Tribunal.

17. The Respondent noted that the motion had already been resolved by the Tribunal.

18. The Tribunal recalls that the Duty Judge gave the Applicant's motion for interim measures full consideration and subsequently rejected it under Order No. 097 (NY/2023) of 3 October 2023. Accordingly, the Applicant's oral request is moot.

*Applicant's oral motion for joinder of Cases No. UNDT/NY/2023/019 and No. UNDT/NY/2023/020*

19. The Applicant submitted that the two applications he had filed simultaneously—registered as Cases No. UNDT/NY/2023/019 and No. UNDT/NY/2023/020—are very closely related and that the one cannot be understood without the other. He requested the Tribunal to authorize the joinder of both cases.

20. The Respondent did not make any observations on this request.

21. The Tribunal finds that a decision on the joinder of the cases would be premature at this stage. The matter will be given due consideration after the issue of receivability is resolved.

*Applicant's request for a hearing*

22. The Applicant requested the Tribunal to conduct a hearing in this case so that he may call witnesses to testify in support of his case.

23. The Respondent did not make any submissions on this point.

24. The Tribunal finds that until and unless the issue of receivability is resolved, it would be premature to decide whether a hearing is necessary in this case.

25. In light of the foregoing,

IT IS ORDERED THAT:

26. The Respondent's motion on determining the receivability of the application as a preliminary matter is granted.

27. The Applicant's oral motion for interim measures is moot as the matter has already been resolved under Order No. 097 (NY/2023).

28. The Applicant's oral motion for the joinder of his two cases is premature and will be determined later.

29. The Applicant's request for a hearing is premature and will be determined later.

*(Signed)*

Judge Margaret Tibulya

Dated this 4<sup>th</sup> day of April 2024

Entered in the Register on this 4<sup>th</sup> day of April 2024

*(Signed)*

Isaac Endeley, Registrar, New York