



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/004
OrderNo.: 109 (NY/2022)
Date: 13 December 2022
Original: English

Before: Judge Joelle Adda
Registry: New York
Registrar: Morten Albert Michelsen, Officer-in-Charge

HEURTEMATTE

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

ORDER ON
CASE MANAGEMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Michel Boulianne, UN Women
Prue Smith, UN Women
Ivanova Galan, UN Women

Compensation for harm under art. 10.5(b) of the Dispute Tribunal's Statute

9. Under art. 10.5(b) of the Statute of the Dispute Tribunal, compensation for harm must be “supported by evidence”. The Applicant has provided no such evidence, and the Tribunal will therefore allow him to do so. In this regard, the Tribunal refers to the Appeals Tribunal’s judgment in ~~2018~~ NAT-874 in which it stated as follows (see, paras. ~~202~~):

... It is universally accepted that compensation for harm shall be supported by three elements: the harm itself; an illegality; and a nexus between both. It is not enough to demonstrate an illegality to obtain compensation; the claimant bears the burden of proof to establish the existence of negative consequences, able to be considered damages, resulting from the illegality on a causal link. [reference to footnote omitted] If one of these three elements is not established, compensation cannot be awarded. Our case law requires that the harm be shown to be directly caused by the administrative decision in question. [reference to footnote omitted]

... As regards the award of compensation for harm, our jurisprudence has evolved following the 2014 General Assembly resolution 69/203, which amended our Statute and that of the UNDT, introducing the expression “supported by evidence” after “compensation for harm” in Article 10(5)(b) of the UNDT Statute and Article 9(1)(b) of the Appeals Tribunal Statute. A breach of staff member’s rights, despite its fundamental nature, is thus not sufficient to justify such an entitlement. There must indeed be proven harm stemming directly from the Administration’s illegal act or omission for compensation to be awarded.

...

IT IS ORDERED THAT:

11. By 4:00 p.m. on Wednesday, 4 January 2023, the Applicant ~~to~~ file (a) his final pleadings on remedies, which is to be five pages⁴⁴