
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/024

Order No.: 068 (NY/2024)

Date: 19 June 2024

Original: English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

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7. In the Respondent's 10 June 2024 submission, he, in essence, submits that he cannot disclose the requested documentation because OIOS has refused to make the relevant documentation available due to the confidentiality of the documentation. He further states that he has no means of compelling OIOS to do so due to the independent nature of OIOS's operations under its mandate. Finally, he submits that no adverse inference should be drawn from OIOS refusing to disclose the documentation in the present case. Appended to his submissions, the Respondent attaches an Interoffice Memorandum dated 5 June 2024 in which the Investigations Division Director of OIOS explains her reasons for the non-disclosure decision.

8. In the Applicant's 10 June 2024 submission, when objecting to the Respondent's refusal to disclose the requested documentation, he contends that OIOS's rationale is "manufactured" and "misplaced" and should be rejected. He requests that (a) an adverse inference should indeed be drawn from the Respondent's failure to disclose the relevant documentation, and (b) the Respondent should be sanctioned for abuse of process for failing to comply with Order No. 063 (NY/2024).

9. To resolve the impasse, the Tribunal will call the parties to a Case Management Discussion ("CMD") before the hearing begins. To facilitate this, the Respondent is to ensure that a representative from OIOS is present at the CMD with the necessary decision-making power to explain its non-disclosure decision and make an immediate decision regarding the possible disclosure, or not, of the relevant documentation.

10. In light of the above,

IT IS ORDERED THAT:

11. The Complainant is to provide her testimony at 10:00 a.m. on

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12. The parties are to attend a CMD at **9:30 a.m. on Thursday, 20 June 2024** via MS Teams at which a representative of OIOS is also to be present.

(Signed)

Judge Marga26.34300000 g0 G[()] TJETQ.