



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NY/2020/035  
Order No.: 24 (NY/2021)  
Date: 17 March 2021  
Original: English

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**Before:** Judge Joelle Adda  
**Registry:** New York  
**Registrar:** Nerea Suero Fontecha

MONNIER

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON RESPONDENT'S MOTION ON  
PRODUCTION OF DOCUMENTS**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Jonathan Croft, ALD/OHR, UN Secretariat  
Miryoungh An, ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant in this case challenges the Administration's decision not to pursue his complaint of harassment against his supervisor.

2. By Order No. 19 (NY/2021) of 3 March 2021, the Tribunal directed the Respondent to file a copy of the investigation report on the allegations of misconduct raised by the Applicant. The Tribunal afforded the Respondent the opportunity to redact the report to preserve its confidentiality as required and gave the Applicant the

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administrative issuances, does the Applicant have a right to receive the investigation report.

6. The Respondent further refers to Ivanov2015-UNAT-572 (para. 26), where the Appeals Tribunal stated that complainants are not entitled to receive a copy of the full investigation report unless they present convincing arguments to show that there were exceptional circumstances which might otherwise have entitled them to the full report.

7. The Respondent avers that the Applicant has not shown any exceptional circumstances and therefore has no right to receive the investigation report. He claims that the Applicant merely refuses to accept the responsible official's decision while having adduced no evidence supporting a reasonable perception or inference that the investigators or the decision-maker were biased against him.

8. The Respondent further recalls that in a system of administration of justice governed by law, the presumption of innocence must be respected. When the Administration decided not to initiate a disciplinary process in this case, it did so based on the investigation and supporting documentation. The Respondent also argues that the Applicant's allegations of bias are unfounded.

9. From the outset, the Tribunal recalls that Order No. 19 (NY/2021) does not direct the Respondent to submit the full investigation report but rather affords him the opportunity to redact the report as he deems fit to safeguard legitimate confidentiality concerns.

10. The Tribunal is aware that neither ST/SGB/2008/5 nor ST/AI/2017/1 provide for the complainant to receive a copy of the report. The Tribunal also acknowledges that under Ivanov, the Applicant is not entitled to receive a copy of the full investigation report except where he or she can show exceptional circumstances.

11. The Tribunal further acknowledges that the decision to initiate a disciplinary process is within the discretion of the Administration (see, for instance, Abboud 2010-UNAT-100, para. 34).







Applicant with a sufficiently detailed summary of the findings of the investigation or disclose to the Applicant a redacted version of the investigation report.

27. In light of the above,

IT IS ORDERED THAT:

28. By **4:00 p.m. on Monday, 5 April 2021**, the Respondent shall submit into evidence one of the following:

- a. A sufficiently detailed summary of the findings of the investigation into the Applicant's allegations of misconduct, or;
- b. A redacted version of the investigation report.

29. By **4:00 p.m. on Tuesday, 13 April 2021**, the Applicant may submit observations to the reply and the evidence submitted by the Respondent. The submission shall not exceed five pages, using Times New Roman, font 12 and 1.5 line spacing;

30. Upon receipt of the above-mentioned submissions, the Tribunal shall provide any further instructions.

(Signed)

Judge Joelle Adda

Dated this 17<sup>th</sup> day of March 2021