



## Introduction

1. By Order No. 040 (NY/2024) dated 4 April 2024, the Tribunal provided the following orders:

... By **4:00 p.m. on Thursday, 11 April 2024**, the Applicant should file submissions covering the following aspects:

- a. detailing the relevancy of the documents which he requests the Respondent to produce;
- b. explaining why a hearing is necessary;
- c. explaining the relevance of the evidence of each of the proposed witnesses;
- d. explaining why this Application should be joined with other three Applications whose particulars should be indicated, including the stages at which each of them is.

... By **4:00 p.m. on Tuesday, 16 April 2024**, the Respondent is to file his comments, if any, on the Applicant's 11 April 2024 submission.

2. The parties duly filed their responses to Order No. 040 (NY/2024).

## Consideration

### *Joining of cases*

3. With reference to Cases No. UNDT/NY/2023/038 (Rotheroe), UNDT/NY/2024/006 (Wojciechowski), and UNDT/NY/2024/015 (Saito), the Applicant submits that, "There are presently three other cases with background and arguments similar to those of the Applicant. All three were the direct result of the seizure and examination of the Applicant's IT devices and are based on private email exchanges that took place between them. They were all signatories to the complaint of 19 July 2019 as well to the letter to the SG. All had their IT equipment seized on 13 May 2022 along with the other whistleblowers".

4. The Applicant further states that, "There are obvious connections in the choice of individuals to be targeted with disciplinary action that will require similar

Case No. UNDT/

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9. The Applicant generally submits that he “wishes to underscore the importance of understanding the context for the communications cited by the Respondent as evidence of misconduct”. While “the Respondent refuses to recognize either the extraordinary circumstances facing the [Office of Investment Management (“OIM”)] at the time in question or the central role played by the Applicant and his colleagues in courageously acting as whistleblowers to protect the Pension Fund ... these issues are critical to determining the legality of the actions in question”. In other words, “if the underlying actions of filing formal complaints against the improper actions of the former [Representative of the Secretary-General (“RSG”), name redacted for privacy reasons] is not misconduct,

Case No. UNDT/NY/2023/024

Order No. 056 (NY/2024)

in direct response to the Applicant's and his colleagues' letter to the Secretary-General of 13 March 2020 (see



invalidate this communication and others evidencing harassment of [the Complainant]”.

Conclusion

18. The Tribunal finds that, at this stage of the proceedings, it cannot fully assess whether any of the documents requested by the Applicant would be relevant or not to the adjudication of the present case. To avoid unnecessary delays and case management, the Respondent will therefore be ordered to produce the requested documentation. If irrelevant, the Tribunal will simply not rely on the documentation in its final Judgment.

*proposed witnesses*

19. The Applicant proposes the following witnesses:

The Applicant

20. The Applicant submits that his “testimony would assist in clarifying all the disputed facts and in addressing the three charges, one of which abuse of authority, was not sustained by OIOS but neverq0.0n[00B3}TJETQ.000008871 0 595.32 842.04 reW\*hBT/







Facts is about the Applicant's 19 July 2019 complaint filed against [the former SRG], which is irrelevant".

31. The Tribunal notes that the Appeals Tribunal has held that the Dispute Tribunal is not to make its own factual findings if the parties have agreed on certain facts (see *Ogorodnikov* 2015-UNAT-549, para. 28). No evidence is therefore necessary on para. 18 of the consolidated list of agreed facts. Regarding para. 47,

the Tribunal notes that the R40 gr7iT7ETQMC /Span AMC-TQ9.6 Tf-0pond7(c)n1 0 0 1 246.53 652.3



Case No. UNDT/NY/2023/024

Order No. 056 (NY/2024)

