



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2015-UNAT-531



**Rangel
(Applicant)**

v.

**Registrar
of the International Court of Justice
(Respondent)**

JUDGMENT

Before:	Judge Inés Weinberg de Roca, Presiding Judge Richard Lussick Judge Rosalyn Chapman
Case Nos:	2014-611, 2014-674 & 2015-689
Date:	26 February 2015
Registrar:	Weicheng Lin

Counsel for Applicant: Self-represented

Counsel for Respondent: Jean-Pele Fomété/Roland Adjovi

JUDGE INÉS WEINBERG DE ROCA, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it the following motions:

a) “Motion for Interim Relief” filed by Ms. Juliana Rangel on 16 July 2014, in *Rangel v. International Court of Justice* (Case No. 2014-611). The Registrar of the International Court of Justice (Registrar and ICJ, respectively) filed his comments on 18 August 2014.

b) “Motion for Transmission of Important Information” filed by Ms. Rangel on 25 August 2014 (Case No. 2014-611). The Registrar filed comments on 2 October 2014.

c) “Motion for Interim Relief” filed by Ms. Rangel on 30 October 2014 (Case No. 2014-674). The Registrar filed comments on 17 November 2014.

d) “Motion for Transmission of Information Concerning an Incident on 2 December 2014 and Request for Interim Measures Regarding My Safety”, filed by Ms. Rangel *ex parte* on 11 December 2014 in two cases (Case Nos. 2014-611 and 2014-674).

e) Three Motions for Confidentiality filed by Ms. Rangel *ex parte* on 30 October, 11 December and 31 December 2014, respectively, in Case Nos. 2014-611, 2014-674 and 2015-689.

Facts and Procedure

2. Ms. Rangel joined the ICJ as Head of the Documentation Service and Library of the ICJ at the P-4 level in June 2003. She was initially placed on fixed-term appointments and in June 2013, she was granted a continuing appointment. Between March 2013 and April 2014, Ms. Rangel claims she “became the target of serious acts committed, ordered, or tolerated by the Registrar” of the ICJ. By letter dated 12 February 2014, the ICJ Administration informed Ms. Rangel that she was placed on administrative leave pursuant to Section 4 of Annex VI to the ICJ Staff Regulations (Administrative leave pending investigation and the disciplinary process). Attached to the letter were two reports on the outcome of investigations into

allegations leveled by two staff members against Ms. Rangel, as well as allegations by Ms. Rangel against one of these staff members. By letter dated 3 April 2014, the Registrar informed Ms. Rangel that it was established that she had committed serious misconduct and that he decided to impose on her the disciplinary measure of separation from service, effective 11 April 2014, with compensation in lieu of notice.

3. On 30 July 2013, 8 November 2013, 19 December 2013, 16 January 2014, 31 March 2014, and 11 April 2014, respectively, Ms. Rangel filed claims before the ICJ Conciliation Committee contesting:

- the Registrar's refusal to submit at least one of the claims against her to the United Nations Ombudsman's Office or, in the alternative, to the Judges of the ICJ, thereby denying her access to a neutral first instance body in the context of complaints made against her (claim 1);
- the Administration's decision of 13 September 2013 not to annul a disciplinary procedure conducted against her despite formal and substantive errors and the resulting decision of 17 September 2013 to maintain on the panel a member accused of bias and/or negligence in respect of Ms. Rangel in a previous procedure (claim 2);
- the decision to appoint two security officers of the International Criminal Tribunal for the former Yugoslavia to investigate the facts underpinning the disciplinary procedure conducted against Ms. Rangel (claim 3);
- the Administration's actions seeking to cover up the mistakes/omissions by the ICJ's Chief Medical Officer, placing her in a situation of conflict of interest, and refusing to initiate disciplinary proceedings against her (claim 4);
- her placement on administrative leave, communicated to her by letter dated 12 February 2014, which she contends was unlawful (claim 5); and
- her dismissal which she contends was unlawful and a result of harassment, discrimination, and abuse of power (claim 6).

4. In its reports dated 28 April 2014, 30 September 2014, and 28 November 2014, the ICJ Conciliation Committee dismissed Ms. Rangel's complaints in their entirety.

5. On 26 May 2014, Ms. Rangel filed an appeal against the Registrar's decisions (claims 1 to 4), affirmed by the Conciliation Committee in its report of 28 April 2014 (Case No. 2014-611). The Registrar answered on 11 August 2014. On 30 October 2014, Ms. Rangel filed an appeal against the Registrar's decision (claim 5), affirmed by the ICJ Conciliation Committee in its report dated 30 September 2014 (Case No. 2014-674). The Registrar answered on 22 January 2015. On 5 January 2015, Ms. Rangel filed an appeal against the Registrar's decision (claim 6), affirmed by the ICJ Conciliation Committee in its report dated 28 November 2014 (Case No. 2015-689). This appeal has not been forwarded to the Registrar, pending a ruling by the Appeals Tribunal on Ms. Rangel's motions for confidentiality.

Motions

Motions for Interim Relief (Case Nos. 2014-611 and 2014-674)

6. Ms. Rangel requests that: the Appeals Tribunal order the Registrar to continue payment of an amount equivalent to the salary she had received before her dismissal from the ICJ, until the Appeals Tribunal renders its judgments on the merits in Case Nos. 2014-611 and 2014-674; she receive retroactive payment of salaries she has not received since mid-April 2014 (except for the three months' salary she received in lieu of notice (for the period of 11 April to 11 July 2014)); the Registrar make the outstanding payments for the period of "paid leave", i.e. 11 April to 11 July 2014, during which she was not allowed to come to work; the Registrar make his contribution to collective health insurance for the month of April 2014; and the ICJ Conciliation Committee render its report regarding her sixth claim¹ as soon as possible.

7. The Registrar states that the motions do not meet the requirements of Article 9(4) of the Statute of the Appeals Tribunal, in that the conclusions of the ICJ Conciliation Committee were not favorable to Ms. Rangel.

¹ This claim was addressed in the ICJ Conciliation Committee's report dated 28 November 2014 and is therefore moot.

8. Article 9(4) of the Appeals Tribunal's Statute provides that "[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal".

9. The granting of interim measures is subject to strict requirements. Clearly, it is only available to protect a litigant who the Appeals Tribunal believes is likely to succeed on appeal, and, where there is real likelihood that without receiving the temporary relief, justice will in effect be denied even if the litigant succeeds on appeal. The likelihood of success on appeal is the rationale for the requirement in the Appeals Tribunal's Statute requiring that any interim measure for temporary relief must be consistent with the decision of the first instance body, in this case, the ICJ Conciliation Committee.²

10. In the present case, Ms. Rangel does not seek an interim measure for temporary relief *consistent* with the pronouncements of the ICJ Conciliation Committee. Rather, Ms. Rangel is seeking interim relief in cases where the ICJ Conciliation Committee dismissed her applications. Since one of the two cumulative conditions under Article 9(4) of the Appeals Tribunal's Statute is not fulfilled, we need not further consider the second condition. Moreover, the Appeals Tribunal does not otherwise possess the power to make the orders she requests.

11. For the foregoing reasons, Ms. Rangel's requests for interim relief are denied.

Motion for Transmission of Important Information (Case No. 2014-611)

12. Ms. Rangel submits that this motion does not constitute a reply to the Registrar's answer to her appeal. Rather, it is a communication of important information that may have an impact on her case. The information included in her pleadings before the ICJ Conciliation Committee aimed to show that harassment, discrimination, and abuse of power had taken place. She does not consider the ICJ Conciliation Committee to be a neutral first instance body vested with the power to make binding decisions. In her view, it merely makes recommendations and does not take decisions. Should the Appeals Tribunal entertain the Registrar's position on this point, the Appeals Tribunal will need to rule on the facts that were

² Cf. *Nwuke v. Secretary-General of the United Nations*, Order No. 100 (2012).

presented to the Committee which would extend the scope of the litigation. In such case, she asks that she be given the opportunity to add a number of claims to her appeal.

13. The Registrar asks that the Appeals Tribunal dismiss the motion.

14. Under Article 31(1) of the Rules of Procedure and Section II.A.3 of Practice Direction No. 1 of the Appeals Tribunal, the Appeals Tribunal may allow a motion requesting leave to file additional pleadings after the filing of the answer to the appeal if there are exceptional circumstances justifying the motion.

15. Ms. Rangel failed to demonstrate exceptional circumstances. Her motion is dismissed.

Motion for Transmission of Information Concerning an Incident on 2 December 2014 and Request for Interim Measures Regarding My Safety (Case Nos. 2014-611 and 2014-674)

16. Ms. Rangel submits that on 2 December 2014, the police forcefully opened the door to her apartment on the ground that the Registrar was concerned about her safety after obtaining a copy of a personal e-mail she had sent. On another occasion, the Registrar tried to see her at her home despite the fact that her claims of harassment against him were pending.

17. Ms. Rangel requests that the Appeals Tribunal order the Registrar to stop any harassment and intrusion into her private life and that of her neighbours, including the surveillance of her personal e-mail account, and to refrain from contacting her directly or indirectly.

18. Article 9(4) of the Appeals Tribunal's Statute is the only provision in the Statute that confers on the Appeals Tribunal the power to order interim measures. Article 9(4) provides that "[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal".

19. In the present case, Ms. Rangel does not seek an interim measure for temporary relief which is consistent with the pronouncements of the ICJ Conciliation Committee. Rather, Ms. Rangel is seeking interim relief in cases where the ICJ Conciliation Committee dismissed her applications. Since one of the two cumulative conditions under Article 9(4) of the Appeals Tribunal's Statute is not fulfilled, we need not further consider the second condition. Moreover, the Appeals Tribunal does not otherwise possess the power to make the orders she requests. The application is dismissed.

20. Finally, we note that Ms. Rangel, when filing this motion in the Tribunal's Court Case Management System, classified her motion as an "ex parte" filing. We find no reason for such classification and accordingly instruct the Registrar of the Appeals Tribunal to serve the motion on the Registrar of ICJ.

Motions for Confidentiality (Case Nos. 2014-611, 2014-674 and 2015-689)

21. Ms. Rangel has filed three separate motions seeking confidentiality of two documents which are annexed to a number of appeals and motions she filed in her three cases:

-- One document contains three witness statements in relation to the 2 December 2014 incident, including statements by her neighbours and a former colleague, who is currently on leave because of alleged acts of harassment by the Administration. She seeks confidentiality of this document on the ground that she does not want to expose her colleagues to potential additional conflicts. This document is attached as Annex 2 to Ms. Rangel's "Motion for transmission of information concerning an incident on 2 December 2014 and request for interim measures regarding my safety" in Case Nos. 2014-611 and 2014-674; as well as Annex 21 to Ms. Rangel's appeal in Case No. 2015-689.

-- The other document contains statements made by Ms. Rangel's (former) colleagues and interns, who she fears will suffer retaliation, if their identities are disclosed to the ICJ Registrar. This document is attached as Annex 12 to Ms. Rangel's appeal in Case No. 2014-674 and Annex 12 to Ms. Rangel's appeal in Case No. 2015-689.

22. The Appeals Tribunal has previously held that “the purpose of anonymity is to protect the privacy of victims of misconduct, and also to ensure their safety”.³ The Appeals Tribunal has, for example, granted confidentiality for individuals who were rescued from a kidnapping and prostitution ring.⁴

23. In the present case, we see no reason for a confidential filing of these documents. We therefore lift the confidentiality of the document containing declarations of witnesses who testified to the 2 December 2014 incident. With respect to the document containing declarations of (former) staff members, we note that Ms. Rangel requests that this document be removed from the record should the Appeals Tribunal deny her request for confidentiality. We therefore instruct the Registrar of the Appeals Tribunal to strike this document from the record.

Judgment

24. For the foregoing reasons, Ms. Rangel’s Motions are dismissed in their entirety. The Registrar of the Appeals Tribunal is instructed:

- a) to serve Ms. Rangel’s “Motion for transmission of information concerning an incident on 2 December 2014 and request for interim measures regarding my safety” in Case Nos. 2014-611 and 2014-674 on the Registrar of the ICJ;
- b) to serve Annex 2 to Ms. Rangel’s “Motion for transmission of information concerning an incident on 2 December 2014 and request for interim measures regarding my safety” in Case Nos. 2014-611 and 2014-674, as well as Annex 21 to Ms. Rangel’s appeal in Case No. 2015-689 on the Registrar of the ICJ; and
- c) to strike from the record Annex 12 to Ms. Rangel’s appeal in Case No. 2014-674 and Annex 12 in Case No. 2015-689.

³ *Oh v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-480, para. 23.

⁴ *Ibid.*

Original and Authoritative Version: English

Dated this 26th day of February 2015 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Lussick

(Signed)

Judge Chapman

Entered in the Register on this 17th day of April 2015 in New York, United States.

(Signed)

Weicheng Lin, Registrar