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

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Case No. 2012-329

**Likuyani**

**(Appellant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**ORDER No. 120 (2012)**

1. On 19 May 2012, Mr. Aineah Likuyani, represented by counsel, filed an appeal of Judgment No. UNDT/2012/040, issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) on 28 March 2012,<sup>1</sup> which determined that Mr. Likuyani's application for the revision of former United Nations Administrative Tribunal (UNAdT) Judgment No. 976, issued 17 November 2000, was not receivable. The Secretary-General filed his answer to the appeal on 27 July 2012.

2. On 8 October 2012, Mr. Likuyani filed a motion for discovery of documents, seeking the following seven categories of documents: (1) reports or other evidence pertaining to charges of fraud or misuse of medical insurance at Aga Khan Hospital (Hospital) in 1996; (2) Hospital attendance records for Mr. Likuyani and his family members on 10 August 1996 and 17 August 1996; (3) proceedings before the Joint Disciplinary Committee (JDC) regarding Mr. Likuyani's (and others') misuse of telephones in 1996; (4) JDC proceedings regarding Mr. Likuyani's fraudulent medical claims; (5) the Secretary-General's replies in UNDT/NRB 2010/069; (6) Mr. Likuyani's submissions in his case before the UNDT; and (7) the contract between the Organization and the Hospital in 1996. The Secretary-General filed his answer to Mr. Likuyani's motion on 17 October 2012.

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<sup>1</sup> *Likuyani v. Secretary-General of the United Nations*, Judgment No. UNDT/2012/40.

3. Article 8(1) of the Appeals Tribunal Statute provides that this Tribunal “may order production of documents or such other evidence as it deems necessary, subject to article 2” of the Statute. In turn, Article 2(5) of the Statute provides, in part:

In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, ... it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings.

4. Here, Mr. Likuyani has not shown that “exceptional circumstances” exist for the admission of additional evidence or that it “is in the interest of justice and the efficient and expeditious resolution” of this proceeding for additional evidence to be received by this Tribunal. To the contrary, the documentary evidence Mr. Likuyani seeks would not assist this Tribunal in the efficient and expeditious resolution of this case, as required by the Statute, since it is not relevant to the issue on appeal, i.e., whether the UNDT correctly determined that Mr. Likuyani’s application to revise UNAdT Judgment No. 976 was not receivable. The UNDT did not address the merits of any claims by Mr. Likuyani. On the other hand, the documents Mr. Likuyani seeks to discover do address the merits of his claims regarding his separation from service with the Organization based on charges of medical claims misconduct; they do not address the issue of whether the UNDT correctly determined it could not receive Mr. Likuyani’s application to revise UNAdT Judgment no. 976. Moreover, category (6) documents are documents Mr. Likuyani clearly should have in his possession. Accordingly, Mr. Likuyani’s motion for discovery of documents should be denied.

IT IS HEREBY ORDERED that Mr. Likuyani’s motion for discovery is DENIED with prejudice.

Original and Authoritative Version: English

Dated 24<sup>th</sup> day of January 2013 in  
Los Angeles, United States.

*(Signed)*  
Judge Rosalyn Chapman, Duty Judge

Entered in the Register on this 24<sup>th</sup> day of  
January 2013 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar