



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Cases No. 2012-385 and No. 2012-393

Ademagic et al.
(Respondents/Appellants)

v.

Secretary-General of the United Nations
(Appellant/Respondent)

ORDER NO. 182 (2014)

THE UNITED NATIONS APPEALS TRIBUNAL (APPEALS TRIBUNAL),

HAVING BEFORE IT a Motion filed by Ms. Ernesa Ademagic and eight other staff members on 25 April 2014,¹ seeking “an order suspending the separation of the Nine Staff Members [from service] until 19 June 2014 or until the [Secretary-General] has completed the conversion process, whichever is later”,

NOTING that in Judgment No. 2013-UNAT-359, *Ademagic et al. v. Secretary-General of the United Nations*, issued on 19 December 2013, the Appeals Tribunal held, *inter alia*,

... Because the Appeals Tribunal has legal authority to do so, and has sufficient factual information, the matter is hereby remanded to the decision maker, namely the [Assistant Secretary-General for Human Resources Management (ASG/OHRM)] (rather than to the [United Nations Dispute Tribunal]) for the ASG/OHRM to consider, in accordance with the relevant statutory provisions and the principles of substantive due process, whether the staff members' fixed-term contracts should be

¹ Bojan ANRIC, Dragica CVETKOSKA, Jelena DELIC, Jasna (Klara) DOKMANOVIC, Goran GEORGIJEV, Alexander PAVICIC, Borislava SASIC and Ljubomir VUKOSAVLJEVIC.

retroactively converted to permanent appointments. There is a statutory obligation on the Administration, in the context of the best interests of the United Nations, to give “every reasonable consideration” to those [International Criminal Tribunal for the former Yugoslavia (ICTY)] staff members demonstrating the proficiencies, competencies and transferrable skills which render them suitable for career positions within the Organization.

... The ASG/OHRM shall use a process that is fair, properly documented and completed in a timely manner. Given the duration of these proceedings, and mindful of the finite mandate of the ICTY and the stress uncertain contract situations imposes on staff, the Appeals Tribunal directs that the conversion process be completed within 90 days of the publication of this Judgment. Each staff member is entitled to receive a written, reasoned, individual and timely decision, setting out the ASG/OHRM’s determination on his or her suitability for retroactive conversion from fixed-term to permanent contract. This applies equally to any litigant staff members who were part of the original conversion exercise at issue but have since left the service of the ICTY.

NOTING that in Order No. 178 (2014), issued on 2 April 2014, the Appeals Tribunal granted a Motion filed by the Secretary-General requesting an extension of the time limit in which to complete the new conversion process until 19 June 2014;

CONSIDERING the submissions of Ms. Ademagic *et al.* as to the likely effect on the nine staff members if they are separated from service while the conversion process is still pending, and their argument that the delay in the execution of the Judgment is entirely within the discretion of the Secretary-General;

CONSIDERING ALSO the submissions of the Secretary-General that the nine staff members’ separation from service is “an entirely new and distinct administrative decision” which should be appealed on its own merits and not brought directly to the Appeals Tribunal, and that, in any event, the Appeals Tribunal does not have the statutory power to suspend contested administrative decisions;

CONSIDERING that the Motion is directly related to the execution of Judgment No. 2013-UNAT-359, as well as Order No. 178 (2014);

DECIDES that it is in the interests of justice to grant the Motion, in order to maintain the *status quo* for the nine staff members in question, until 19 June 2014 or such earlier date as the Secretary-General completes the conversion exercise, always provided that the applicable legal notice period shall be observed.

Original and Authoritative Version: English

Dated this 29th day of April 2014.

(Signed)

Judge Faherty, President
Dublin, Ireland

(Signed)

Judge Weinberg de Roca
Buenos Aires, Argentina

(Signed)

Judge Adinyira
Accra, Ghana

(Signed)

Judge Simón
Montevideo, Uruguay

(Signed)

Judge Lussick
London, United Kingdom

(Signed)

Judge Chapman
Los Angeles, United States

Entered in the Register on this 29th day of April 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar