



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2015-724

Nielsen
(Applicant)

v.

Secretary-General of the United Nations
(Respondent)

ORDER No. 230 (2015)

1. On 19 April 2015, Ms. Olga Nielsen filed an application for judicial review with the United Nations Dispute Tribunal (UNDT) “challenging UNFPA [United Nations Population Fund] inaction on her complaints of ‘improper behavior ..., harassment and abuse of authority toward [her]’ from the Office of the Department of Human Resources (DHR), UNFPA, and from the UNFPA Executive Director and Legal Officers, respectively”. Ms. Nielsen had filed the complaints with UNFPA’s Office of Audit and Investigation Services (OAIS) in October and December 2014 and February 2015.

2. On 19 May 2015, the UNDT issued Summary Judgment No. UNDT/2015/039, in the case of *Nielsen v. Secretary-General of the United Nations*, rejecting Ms. Nielsen’s application as not receivable. The UNDT concluded that as Ms. Nielsen separated from the Organization in January 2014, she was not a staff member when she filed her harassment complaints in October and December 2014, and February 2015, and she had no legal standing to do so. The UNDT also concluded that, pursuant to Section 9.3.1 of the 2013 UNFPA Policy on Harassment, Sexual Harassment and Abuse of Authority, her complaints were not timely filed and she had not been exceptionally granted an extension of time by the Director of the Division of Oversight Services.

3. On 31 May 2015, Ms. Nielsen filed her appeal of the UNDT Judgment with the United Nations Appeals Tribunal (Appeals Tribunal). The appeal is accompanied by 15 annexes containing additional submissions and totaling 236 pages. Ms. Nielsen filed Annex 2 *ex parte*, Annexes 6 to 12 under seal, and Annex 13 as confidential. In a

complementary motion filed with her appeal, she requests that the Appeals Tribunal mark Annex 2 *ex parte* and Annex 13 as confidential.

4. Having reviewed the substance of the annexes and for the reasons set out hereafter, the classifications accorded by Ms. Nielsen to the various documents are not warranted.

5. Ms. Nielsen claims that Annex 2 evidences an extension of time granted to her by the Director of the Division of Oversight Services to file her harassment complaints. Rather, Annex 2 is a letter dated 31 March 2015, from OAIS to Ms. Nielsen informing her of the outcome of its preliminary review of investigations. Given that Ms. Nielsen's case before the UNDT, which was filed three weeks after the date of this letter, challenged UNFPA's alleged inaction in relation to her complaints, Annex 2 was clearly relevant to the case before the UNDT and should not be filed *ex parte*. There is no good cause not to serve Annex 2 on the Secretary-General.

6. Annexes 6 through 12 and 13 are documents already in the possession of the Secretary-General, being correspondence between Ms. Nielsen and UNFPA management, proof of her educational qualifications and information which is publicly available on the Internet. Accordingly, there is no good cause to file these annexes "under seal" or as "confidential" documents and such designations are not allowed. Notwithstanding, since Ms. Nielsen does not wish for the Secretary-General to have access to Annex 13, it should be removed from the record.

7. Together with her appeal, Ms. Nielsen also filed a supplementary "Ex parte motion in addition to the ex-parte Annex 2", which merely seeks to supplement her submissions.

8. Further, on 30 June 2015, Ms. Nielsen filed a "Motion to notify UNAT that OAIS was aware about harassment of me from PSB Africa team members even in July 2013".

9. The purpose of filing a motion is to seek an order from the Appeals Tribunal; however, neither of the foregoing motions requests any order or relief by the Appeals Tribunal. While the first motion makes submissions unrelated to the scope of the current appeal, the second motion merely seeks to supplement the submissions in her appeal with additional details.

10. Article 9(2) of the Appeals Tribunal Statute provides that the Appeals Tribunal may award costs against a party if it determines that a party has manifestly abused the appeals process. We note that in Ms. Nielsen's related appeal in Case No. 2014-623, which is currently under consideration, Ms. Nielsen filed eleven motions, and now she has filed three "motions" or submissions in addition to her appeal in this matter. The continuous filing of additional submissions, without the leave of the Appeals Tribunal and under the guise of "motions", constitutes an improper use of the proceedings. Thus, Ms. Nielsen is advised that if she files "motions" or submissions before the Appeals Tribunal in this matter that are deemed frivolous, the Appeals Tribunal may award costs against her.

IT IS HEREBY ORDERED THAT:

- 1) Ms. Nielsen's motion that Annex 2 be filed *ex parte* and Annex 13 be designated confidential **IS DENIED**;
- 2) classification of Annexes 6 to 12 as "under seal" **IS DENIED**;
- 3) the Registrar of the Appeals Tribunal should remove Annex 13 from the case file;
- 4) the Registrar of the Appeals Tribunal shall file and serve the Appellant's appeal and all annexes, with the exception of Annex 13, on the Secretary-General; and
- 5) the Registrar of the Appeals Tribunal shall not include the "Ex parte motion in addition to the ex-parte Annex 2" and the "Motion to notify UNAT that OAIIS was aware about harassment of me from PSB Africa team members even in July 2013" in the case file.

Original and Authoritative Version: English

Dated this 2nd day of July 2015 in
Geneva, Switzerland.

Entered in the Register on this 2nd day of
July 2015 in Geneva, Switzerland.

(Signed)
Judge Rosalyn Chapman, President

(Signed)
Weicheng Lin, Registrar