



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2017-1093

**Rockcliffe
(Appellant)**

v.

**United Nations Joint Staff Pension Board
(Respondent)**

Order No. 285 (2017)

1. Ms. Michelle Rockcliffe is a staff member of the United Nations Joint Staff Pension Fund (Fund). During an election in March/April 2017 to fill the vacant positions of Participant Representatives and Alternate Participant Representatives on the United Nations Staff Pension Committee (UNSPC), Ms. Rockcliffe, along with Mr. Ibrahima Faye, another staff member of the Fund, was elected.

2. The Fund is administered by the United Nations Joint Staff Pension Board (Pension Board or UNJSPB) and the UNSPCs of the Fund's member organizations. The UNJSPB appoints a Standing Committee to act on its behalf when it is not in session. The UNJSPB has also delegated certain of its powers to the UNSPCs. The Fund is headed by the Chief Executive Officer (CEO), who performs functions under the authority of the UNJSPB and serves as the Secretary to the UNJSPB. The secretariat of the UNJSPB also serves as the secretariat of the UNSPC.

3. In a letter dated 13 June 2017, the Chairman of the Standing Committee of the UNJSPB advised Ms. Rockcliffe of the decision of the Standing Committee of the UNJSPB that, in spite of her election to the UNSPC, Ms. Rockcliffe "cannot be given access to Pension Board documents, nor can [she] participate in any formal preparations for Pension Board sessions" while she remains a staff member of the Fund, because being a staff member of the Fund and a Participant Representative of the UNSPC at the same time "would constitute a conflict of interest". The letter continued that "[e]qually,

[Ms. Rockcliffe] cannot participate in meetings of the Pension Board and of its constituent groups, committees and working groups until such time as the conflict of interest has been resolved”. It is noted that the next meeting of the Pension Board will take place in Vienna from 24 to 28 July 2017.

4. On 3 July 2017, Ms. Rockcliffe filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) against the decision to deny her access to the UNJSPB documents and bar her from the UNJSPB meetings. On 4 July, she filed a motion for interim measures.

5. On 6 July 2017, I issued Order No. 284 (2017), in which I rejected a similar motion for interim measures that Mr. Faye had earlier filed, within the framework of Article 9(4) of the Statute of the Appeals Tribunal (Statute). In my view, the remedy of interim measures set forth in Article 9(4) of the Statute was available to a party to a judgment issued by the United Nations Dispute Tribunal, but it was not available to a staff member of the Fund such as Mr. Faye.

6. On 11 June 2017, the CEO of the Fund filed his comments on Ms. Rockcliffe’s motion for interim measures of 4 July 2017. In his view, it is a conflict of interest for Ms. Rockcliffe to serve on the UNSPC and consequently the Pension Board, while working as a staff member of the Fund under the authority of the CEO of the Fund. The matter raised by Ms. Rockcliffe is one of the Fund’s governance and falls under the UNJSPB’s jurisdiction. He requests that the Appeals Tribunal deny Ms. Rockcliffe’s motion of 4 July 2017 in the same manner as it did with Mr. Faye’s motion.

7. Also on 11 July 2017, Ms. Rockcliffe filed a new motion for consideration of her 4 July motion for interim measures by a three-judge panel. She requests that the matter be heard by a three-judge panel because Order No. 284 rejecting Mr. Faye’s motion for interim measures “reflects an interpretation of the Statute of the [Appeals] Tribunal that precludes invocation of Article 9(4) of the Statute for appeals brought under Article 2(9) of the Statute against the Pension Fund” and “involves an initial interpretation of the Statute that has implications for all Pension Fund participants who seek access to the justice system”.

8. I grant the Fund an opportunity to respond to Ms. Rockcliffe's request for a three-judge panel to hear her motion for interim measures, within the limits of the remaining days of the 2017 Summer Session of the Appeals Tribunal.

IT IS HEREBY ORDERED that the Fund is to file its comments on Ms. Rockcliffe's motion of 11 July 2017, if any, at or before 5:00 p.m., New York Time, Thursday, 13 July 2017.

Original and Authoritative Version: English

Dated 12th day of July 2017 in Vienna, Austria.

(Signed)
Deborah Thomas-Felix
President

Entered in the Register on this 12th day of
July 2017 in Vienna, Austria.

(Signed)
Weicheng Lin, Registrar