



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2009/34
Judgment No.: UNDT/2009/032
Date: 12 October 2009
Original: English

Before: Judge Vinod Boolell
Registry: Nairobi
Registrar: Jean-Pelé Fomété

KOUMOIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON A MOTION FOR INTERIM RELIEF
DATED 25 SEPTEMBER 2009**

Counsel for Applicant:
Self Represented

Counsel for the Respondent: Ms. Peri Johnson, Director, Legal Support Office/BOM,
United Nations Development Programme (UNDP).

Notice: The format of this judgment has been modified for publication purposes in accordance with Article 26 of the Rules of Procedure of the United Nations Dispute Tribunal.

THE UNITED NATIONS DISPUTE TRIBUNAL (“Tribunal”),

SITTING in the person of Judge Vinod Boolell,

CONSIDERING that, on 28 September 2009 the Applicant filed a document titled “*Motion for Interim Relief Through United Nations Dispute Tribunal Order of Ethics Review of Current UNDT Submission, by United Nations Secretariat’s Central Ethics Officer Director*” on “*Alleged Exceptionally Severe UNDP-GEF Whistleblowing Retaliation and Discriminatory 200 Series Contract Non-Renewal*” dated 25 September 2009.

That by the said application the Applicant moves the Tribunal:

- (a) to order the Ethics Office to “*deliver his review and recommendations on [the Applicant’s] case*” with respect to “*alleged exceptionally severe UNDP-GEF whistle-blowing retaliation*”; and
- (b) to find a *prima-facie* violation of the Applicant’s due-process rights concerning the non-renewal of his fixed-term contract with UNDP effective 31 December 2006.

RECALLING the Tribunal’s authority pursuant to Article 14 of its Rules of Procedure which allows that:

“At any time during the proceedings, the Dispute Tribunal may order an interim measure to provide temporary relief, where the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination”

CONSIDERING that from the documentation made available to the Tribunal it appears that the Applicant has on two occasions requested the Ethics Office to review his case and the Ethics Office, both at the Agency's level and the Central Ethics Office did communicate their reviews to the Applicant:

1. by an email dated 19 April 2008 in which the UNDP Head of the Ethics Office advised the Applicant that “[she] did not find any evidence that would support [his] allegations that [the Applicant] was subjected to retaliation from management”;
2. by a letter of 5 May 2008 responding to second request for review of his case, the Director of Central Ethic Office indicated to the Applicant that “following consultation [with members of the UN Ethics Committee], [he] ha[d] decided not to undertake an independent review of [the Applicant's] case”.

THAT the issue of the alleged violation of the due process rights of the Applicant concerning the non-renewal of his contract with the UNDP is a matter to be dealt with during the review of the merits of the appeal;

THE TRIBUNAL THEREFORE:

1. Rejects the motion to order to Ethics Office to “deliver his review and recommendations”
2. Decides that the alleged violation of the Applicant's due process rights concerning the non-renewal of his fixed-term contract will be addressed during the review of the substantive appeal.

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Judge Vinod Boolell

Dated this 12th day of October 2009

Entered in the Register on this 12th day of October 2009



Jean-Pelé Fomété, Registrar, UNDT, Nairobi