



**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

MUKEBA WA MUKEBA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

**ON DISMISSAL FOR WANT OF  
PROSECUTION**

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**Counsel for Applicant:**  
Self-Represented

**Counsel for Respondent:**  
Isavella Vasilogeorgi, ALD/OHR, UN Secretariat  
Romy Batrouni, ALD/OHR, UN Secretariat

## **Introduction**

1. On 6 November 2018, the Applicant, a former staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”) filed an application challenging the imposition of the disciplinary measure of separation from service, with compensation in lieu of notice without termination indemnity.

2. This case was originally filed with the Nairobi Registry.

3. On 14 December 2018, the Respondent replied that the application was without merit.

4. On 19 July 2019, the case was transferred to the New York Registry and on 20 January 2020, it was assigned to the undersigned Judge.

5. On 31 January 2020, by way of Order No. 18 (NY/2020), the Tribunal decided to hold a hearing on the merits and requested the parties to confirm their availability.

6. On 3 March 2020, by way of Order No. 39 (NY/2020), having consulted with the parties, the Tribunal scheduled the hearing on 26 March 2020.

7. On 18 March 2020, by email from the Registry, the Tribunal informed the parties that due to the technical difficulties caused by the COVID-19 lockdown, the hearing was postponed until further notice.

8. Having resolved the technical difficulties, on 10 June 2020, the Registry contacted the Applicant asking him to confirm his ability to attend a hearing through Microsoft Teams. Having not received any response from the Applicant, on 15 June 2020, the Registry again emailed the Applicant seeking a response to the 10 June 2020

email. In parallel, the Registry attempted to call the Applicant on the phone number on record, without success.

9. Having received no response from the Applicant, on 18 June 2020, by way of Order No. 103 (NY/2020), the Tribunal requested the Applicant to contact the New York Registry by 4:00 p.m. on Friday, 26 June 2020 and cautioned the Applicant that his application would be dismissed for want of prosecution if he failed to do so.

10. The Applicant did not contact the Registry within the prescribed deadline.

### **Consideration**

11. The Dispute Tribunal has on several occasions pronounced on the principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action and that access to the Dispute Tribunal has to be denied to those who are no longer in need of judicial remedy, or no longer interested in the proceedings (*Bimo and Bimo* UNDT/2009/061; *Saab-Mekkour* UNDT/2010/047; *Zhang-Osmancevic* UNDT/2015/034).

12. The latter applies in the present case, as the Applicant has been directed on three occasions to make the necessary submissions for the continuation of his case, in addition to attempted phone calls by the Registry. The Applicant was given sufficient time to comply with the Tribunal's orders, and clearly warned of the consequences of his failure to do so.

13. However, as of the date of this Judgment, no submission or further correspondence has been received by the Registry from the Applicant. The Tribunal, therefore, can only conclude that the Applicant is no longer interested in the pursuit

and outcome of these legal proceedings, which must therefore be deemed to have been abandoned, and this matter therefore stands to be dismissed for want of prosecution.

**Judgment**

14. In light of the foregoing, but without determination of its merits, the Applicant's application is dismissed for want of prosecution.

*(Signed)*

Judge Joelle Adda

Dated this 29<sup>th</sup> day of June 2020

Entered in the Register on this 29<sup>th</sup> day of June 2020

*(Signed)*

Nerea Suero Fontecha, Registrar, New York