



**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Lucienne Pierre, AS/ALD/OHR, UN Secretariat

Jenny Kim, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant filed an application with the Tribunal requesting an Order for execution of Judgment *Applicant* UNDT/2022/055.
2. The Respondent contends, first, that the application is not receivable and, second, that said judgment has been executed.
3. For the reasons set out below, the application is dismissed.

## **Facts**

4. On 10 June 2022, the Tribunal issued Judgment *Applicant* UNDT/2022/055 adjudicating an application registered under Case No. UNDT/NY/2021/038.
5. On 9 November 2022, the Applicant filed the present application.
6. On 9 December 2022, the Respondent filed his reply.
7. By Order No. 010 (NY/2023) of 14 February 2023, the Tribunal ordered the Respondent to file, by 21 February 2023, updated information concerning the execution of the judgment in question. It also instructed the Applicant to file a response to the Respondent's submission by 28 February 2023.
8. On 21 February 2023, the Respondent filed updated information concerning the execution of the above-mentioned judgment.
9. On 28 February 2023, the Applicant filed his response to the Respondent's submission acknowledging, *inter alia*, that the Respondent had commenced the procedure for convening a medical board.

## **Consideration**

### *Receivability*

10. The Respondent claims that the application is not receivable. He argues that the Dispute Tribunal may only issue an Order for execution under art. 12.4 of its Statute where a judgment requires a time limit for execution and such execution has not been carried out.

11. Article 11.3 of the Tribunal's Statute provides that (emphasis added):

The judgments and orders of the Dispute Tribunal shall be binding upon the parties, but are subject to appeal in accordance with the statute of the United Nations Appeals Tribunal. In the absence of such appeal, **they shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.**

12. Article 12.4 of the Tribunal's Statute reads as follows (emphasis added):

Once a judgement is executable under article 11, paragraph 3, of the present statute, either party may apply to the Dispute Tribunal for an order for execution of the judgement **if the judgement requires execution within a certain period of time and such execution has not been carried out.**

13. Article 32 of the Tribunal's Rules of Procedure contains similar terms.

14. Article 7(c) of the Statute of the Appeals Tribunal provides that an appeal shall be receivable if it is filed within 60 calendar days of the receipt of the judgment from the United Nations Dispute Tribunal.

15. While Judgment *Applicant* UNDT/2022/055 does not provide for its execution within a certain period of time, it is reasonable to infer that in the absence of an appeal, said judgment should be executed within a reasonable time, after the expiry of the 60-day time limit to file an appeal.

16. To rule otherwise would deny access to justice for an Applicant who despite having a judgment decided in his favour, could not request its execution.

17. In this respect, the Tribunal refers to Judgment *Afm Badrul Alam* 2023-UNAT-1315 where the Appeals Tribunal ruled, *inter alia*, on an application for execution of its previous Judgment *Afm Badrul Alam* 2022-UNAT-1214. While the latter did not include a specific period of time for its execution, as provided in art. 11.4 of the Appeals Tribunal's Statute, the Appeals Tribunal considered the application for execution receivable and decided on it (see *Afm Badrul Alam* 2023-UNAT-1315, para. 29).

18. Furthermore, the Tribunal notes that the deadline to file an appeal against its Judgment *Applicant* UNDT/2022/055 expired on 9 August 2022. The Applicant filed his application for execution on 9 November 2022 and the Respondent filed his reply on 9 December 2022. Four months had thus elapsed from the day the judgment became executable to the day the Respondent filed his reply. The Tribunal considers that four months is a reasonable time to allow for the execution of the judgment in question.

19. In light of the above, the Tribunal finds the present application receivable.

*The application for execution*

20. In Case No. UNDT/NY/2021/038, which was decided by Judgment *Applicant* UNDT/2022/055, the Applicant contested the 6 April 2021 decision of the acting United Nations Medical Director to deny his “request to establish a medical board”.

21. In said Judgment, the Tribunal decided, *inter alia*, to rescind the contested decision and to remand the case to the Division of Healthcare Management and Occupational Safety and Health (“DHMOSH”) for a new consideration in light of the Tribunal’s findings therein.

22. Pursuant to Order No. 010 (NY/2023), on 21 February 2023, the Respondent informed the Tribunal that the Organization had completed the execution of Judgment *Applicant* UNDT/2022/055. He indicated that in compliance with it, DHMOSH reconsidered the contested decision and decided to convene a medical board.

23. The evidence shows that by email dated 20 February 2023, the Director of DHMOSH provided the Applicant with the proposed Terms of Reference for the medical board for his review and comments. The Director of DHMOSH also requested the Applicant to advise him of the “practitioner who [had] agreed to represent [him], along with his/her fees and contact details so the Secretariat [could] reach out to establish a Chair”.

24. Although it is regrettable that the Respondent took more than six months to convene a medical board and that, seemingly, he only decided to do so pursuant to this Tribunal's Order No. 010 (NY/2023), the Tribunal finds that Judgment *Applicant* UNDT/2022/055 has been executed. Therefore, there are no remaining legal matters or remedies for the Dispute Tribunal to adjudicate.

25. Concerning the Applicant's additional claims in his submission of 28 February 2023 in relation to the scope of the medical board and the qualifications of the practitioners, the Tribunal finds that they fall out of the purview of the present application for execution and are consequently not receivable.

26. The Tribunal thus considers that the execution of Judgment *Applicant* UNDT/2022/055 has rendered the application moot.

### **Conclusion**

27. In view of the foregoing, the application is dismissed in its entirety.

*(Signed)*

Judge Joelle Adda

Dated this 11<sup>th</sup> day of July 2023

Entered in the Register on this 11<sup>th</sup> day of July 2023

*(Signed)*

Isaac Endeley, Registrar, New York