



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2012/008

Order No.: 050 (NBI/2014)

Date: 14 March 2014

Original: English

Before: Judge Coral Shaw

Registry: Nairobi

Registrar: Abena Kwakye-Berko

JOCONDO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON CASE MANAGEMENT
HEARING**

Counsel for the Applicant:
Victor Rodriguez

Counsel for the Respondent:
Stephen Margetts, ALS/OHRM

Introduction

1. The Applicant is a former employee of the Office for the Coordination of Humanitarian Affairs (“OCHA”). On 11 February 2012, he filed the current Application with the Tribunal contesting the decisions to: (i) offer him an appointment at the P-5 level instead of at the D-1 level, and the related decisions; (ii) move him from Haiti to Dakar; and (iii) abolish his D-1 post in Haiti at the end of his last fixed-term contract, 24 August 2011.

2. The Tribunal held a case management hearing on 12 March 2014 under art. 19 of the UNDT Rules of Procedure with the objective of ensuring the readiness of the case to proceed to a hearing in April 2014. The following were canvassed during the case management hearing:

Issues

3. The Applicant confirmed that the abolishment of the D-1 post in Haiti is still a live issue for determination.

Witnesses

4. Counsel for the Applicant confirmed that the Applicant and Mr. Luc Paciaga, Human Resources Officer, OCHA Geneva would give evidence. He indicated that while Mr. Collen V. Kelapile was willing to give evidence, he had not been able to confirm his availability. The Tribunal advised that it would reconsider the necessity for Mr. Kelapile to give oral evidence in the light of an additional document to be submitted by the Applicant and referred to in paragraph 9 below.

5. The Respondent’s Counsel confirmed the attendance of Ms. Valerie Amos, Under-Secretary-General, OCHA, on 9 April 2014 and possibly during the morning of 10 April. He informed the Tribunal that he had not been able to confirm the availability of Mr. Philippe Lazzarini, Resident Representative and United Nations Resident Coordinator in Somalia.

6. The Respondent requested that the Applicant provide detailed synopses of the evidence of his witnesses, including the Applicant's.

7. The Tribunal indicated that pursuant to its Order No. 223 (NBI/2013), an additional order would be made regarding the appearance of Ms. Gwi-Yeop Son, Director of Cooperate Programmes, OCHA, as a witness.

Documents for the Hearing

8. The Parties confirmed that they would rely on the joint hearing bundle they submitted to the Registry on 4 October 2013 in accordance with Order No. 213 (NBI/2013) of 20 September 2013.

9. The Applicant sought leave of the Tribunal to add a supplemental document to the bundle. He agreed to file a copy of the additional document with grounds for its admission by 14 March 2014. The Respondent will be given an opportunity to respond to the submission.

Hearing Procedure

10. The Tribunal will follow the hearing procedure detailed at paragraph 8 of Order No. 213 (NBI/2013).

Mode of Hearing

11. The Applicant requested that the hearing be conducted via video conference to ensure the quality of the transmission and reception. Counsel for the Respondent and the witnesses for the Respondent are in New York. Counsel for the Applicant and at least one witness are in Geneva. The Applicant is in Nairobi.

Orders

12. The hearing will commence in the Courtroom of the Nairobi Dispute Tribunal at 1400 hours (Nairobi time) on **7 April 2014 and thereafter daily until 10 April 2014.**

13. The Applicant is to file, **by 14 March 2014**, a copy of the additional document he wishes to present at the hearing with grounds for its admission.

14. The Applicant is to file the synopses of his witnesses' evidence and the Parties are to submit their time allocations for their witnesses **on or before 21 March 2014**.

15. The Parties are directed to make all efforts to locate Messrs. Kelapile and Lazzarini to confirm their availability and advise the Tribunal accordingly by **21 March 2014**.

16. In light of the geographical distribution of counsel and the witnesses in this case and because of the extreme technical difficulties encountered by the Tribunal in conducting preliminary hearings in this case via telephone bridging, the Tribunal requests the Administration to use its best endeavours to facilitate, if at all possible, the provision of affordable video conferencing facilities for the duration of the hearing on the merits.

(Signed)

Judge Coral Shaw

Dated this 14th day of March 2014

Entered in the Register on this 14th day of March 2014

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi