



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2013/034

Order No.: 053 (NBI/2014)

Date: 18 March 2014

Original: English

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

OGUNTOLA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON APPLICATION TO FILE
FURTHER EVIDENCE AND AMEND
PLEADINGS**

Counsel for the Applicant:
Alexandre Tavadian, OSLA

Counsel for the Respondent:
Katya Melliush, UNON

Introduction

1. The Applicant is a former staff member of the Economic Commission for Africa (ECA). He filed the current Application on 27 June 2013 challenging the decision not to renew his fixed-term appointment on the basis of his post being abolished.
2. The Respondent submitted a Reply on 29 July 2013.
3. On 5 March 2014, the Applicant filed a motion seeking leave to file further evidence and to amend his pleadings.
4. On 6 March 2014, the Parties filed a joint submission pursuant to Order No. 009 (NBI/2014). By this submission, they sought a further extension of time to fully comply with Order No. 009 and additional time for the Respondent to respond to the Applicant's 5 March 2014 motion, if granted by the Tribunal.

Decision

5. In view of the fact that the Respondent has provided no objections to the Applicant's Motion in the Parties' joint submission but rather seeks time within which to respond, the Tribunal sees no reason to reject the Applicant's petitions.
6. It is noteworthy however that Counsel for the Applicant did not deem it necessary to wait for a ruling from the Tribunal on his petition to submit additional evidence but rather took the liberty of including said evidence as an attachment to his motion. The Tribunal frowns on this rather discourteous practice. In *Nwuke* Order No. 053 (NBI/2011), the Tribunal held as follows:

The Rules of Procedure of the Tribunal do not specifically provide for any other filings apart from an application and a reply and also do not specifically prohibit a party from filing further submissions after a hearing has been conducted into the matter. The Tribunal considers that based on articles 19 and 36.1, a possibility exists for

a party to file other submissions in addition to the application or the reply and to make additional submissions subsequent to a hearing. However, in the Tribunal's view, these possibilities exist only in those cases where either the Tribunal orders such submissions or a party has applied or sought leave/permission of the Tribunal to do so and the Tribunal has granted leave/permission for the party to proceed. Thus, before a party may proceed to file any additional submissions on his or her own initiative, two elements must be satisfied. One, there must be an application by the party seeking leave to file the additional documents and two, permission must be granted by the Tribunal. Consequently, a party may proceed to file additional submissions only if permission is granted by the Tribunal. The additional submissions should not be attached to or form part of the request or application for leave to file.

7. In the future, Counsel for the Applicant should endeavor to comport himself in accordance with the directives set out above.

It is hereby ORDERED that:

8. The Applicant's motion to adduce further evidence and to amend his pleadings is granted.

9. In light of the fact that the Applicant has already submitted the additional evidence and amendments, the Respondent is to file a response on these submissions **no later than 16 April 2014.**

10. The Parties will then have **up until 7 May 2014** to comply fully with Order No. 009 (NBI/2014).

(Signed)

Judge Vinod Boolell

Dated this 18th day of March 2014

Entered in the Register on this 18th day of March 2014

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi