



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2017/004
Order No.: 110 (NBI/2017)
Date: 16 June 2017
Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

AZAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON APPLICANT'S MOTION
FOR CHANGE OF VENUE**

Counsel for the Applicant:
Edward Patrick Flaherty

Counsel for the Respondent:
Alexandre Tavadian, UNHCR

Introduction

1. The Applicant is serving at the D-1 level with the United Nations High Commissioner for Refugees as the Representative in Rwanda. He filed an application with the United Nations Dispute Tribunal (UNDT/the Tribunal) in Nairobi on 10 January 2017 to contest the administrative decision taken by the High Commissioner on 27 June 2016 not to, *inter alia*, appoint and/or promote him to the D-2 level.
2. Additionally, the Applicant moved the Tribunal in his application for a change of venue of his case from Nairobi to Geneva.
3. The Respondent filed a reply on 19 January 2017 in which he addressed the substantive issues raised in the application and opposed the applicant's motion for change of venue.
4. The Applicant filed a response to the reply on 17 February 2017.

Considerations

5. Pursuant to art. 6.2 of the UNDT Rules of Procedure, a party may apply for a change of venue and in accordance with art. 19, the Tribunal may at any time issue any order which appears to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.
6. In the present matter, the Applicant submits that a change of venue of his case from Nairobi to Geneva would be appropriate because: (i) the impugned decision was taken in Geneva; (ii) he has permanent residency in Geneva, normally resides there and will return to Geneva to live once he retires in July 2017; and (iii) his counsel and Respondent's counsel are both located in Geneva.
7. On his part, The Respondent submits that the Applicant's motion for change of venue should be refused because: (i) the decisive factor in deciding this motion should be the location of the Applicant's duty station and not the location where the impugned decision was made; and (ii) a change of venue would be

inconvenient for the Respondent's counsel who is based in Nairobi and not Geneva.

8. While the location of the Applicant's duty station at the time of the impugned decision is an important factor, it will not always be the sole factor that the Tribunal rests upon when considering a motion for change of venue. Such a motion should be reviewed on a case by case basis taking into account geographical proximity and other relevant circumstances.

9. The Tribunal is cognizant of the fact that the Applicant's duty station was Rwanda at the time of the impugned decision but this factor alone is not adequate grounds upon which to refuse the current motion. Additionally, the inconvenience to the Respondent's counsel in the event of a change of venue must be weighed against other concerns that exist.

10. The Tribunal is further persuaded that the geographical proximity of the Applicant and his counsel, the fact that UNHCR has a legal office in Geneva and the presence of the decision-maker also in Geneva will ensure that this matter is disposed of expeditiously and without the usual hitches that attend a hearing in which most of those participating can only be heard over the phone.

In light of the foregoing,

Orders

11. The Applicant's motion for change of venue from Nairobi to Geneva is granted.

12. The UNDT Registry in Nairobi is to transfer the matter of *Azam v. the Secretary-General of the United Nations*, Case No. UNDT/NBI/2017/004, to the UNDT Registry in Geneva with immediate effect.

(Signed)

Judge Nkemdilim Izuako

Dated this 16th day of June 2017

Entered in the Register on this 16th day of June 2017

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi