



UNITED NATIONS DISPUTE TRIBUNAL

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Case Nos.: UNDT/NBI/2018/013  
UNDT/NBI/2018/016  
Order No.: 100 (NBI/2018)  
Date: 20 June 2018  
Original: English

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**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

ABD AL-SHAKOUR et al.  
CARDENAS FISCHER et al.

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON THE APPLICANTS' MOTION  
FOR WITHDRAWAL**

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**Counsel for the Applicants:**

Robbie Leighton, OSLA

**Counsel for the Respondent:**

Stéphanie Cochard, Human Resources Legal Unit, UNOG

Jérôme Blanchard, Human Resources Legal Unit, UNOG

Camila Nkwenti Fuomene, UNEP

Rossana Silva-Repetto, UNEP

Eva Nudd, UNEP

## **Introduction**

1. On 16 October 2017, the Geneva Registry of the United Nations Dispute Tribunal (UNDT) received 323 similar applications filed by the Office of Staff Legal Assistance (OSLA) on behalf of staff members employed by different United Nations entities at the Geneva duty station.

2. The 323 applications were grouped into six cases. Most of the cases were incomplete and were completed between 24 October and 3 November 2017. Those cases concerned 265 staff members of the United Nations Office at Geneva (UNOG) and 20 staff members of the United Nations Environment Programme (UNEP).

3. On 14 November 2017, following a recusal of Geneva UNDT Judges, the six cases were transferred to the Dispute Tribunal in Nairobi and registered as Case Nos. UNDT/NBI/2017/108 and UNDT/NBI/2017/110.

4. All the Applicants are requesting the rescission of the Organization's decision dated 19 and 20 July 2017 to implement a post adjustment change in the Geneva duty station which results in a pay cut. The Applicants also seek compensation for any loss accrued. Their identically phrased applications (hereinafter referred to "the application") stated that they were filed based on an assumption that the decision was taken pursuant to an advice of a technical body in the sense of art. 8(1)(d)(ii) of the UNDT Statute (i.e., ICSC), and, as such, did not require that the impugned decision be submitted for management evaluation.

5. Noting apparent contradiction between the statement contained in the application and the content of the file, on 7 March the Tribunal issued Order No. 024 (NBI/2018) requiring Counsel to file submissions on whether or not the Applicants in Case Nos. UNDT/NBI/2017/108 and UNDT/NBI/2017/110 were in receipt of management evaluation responses at the time the applications were filed on 16 October 2017. Counsel filed the said submissions on 9 March 2018 stating, *inter alia*,

that management evaluation requests had in fact been received at the time of filing those two applications, which fact had been overlooked by him at the time of the filing.

6. The Tribunal held a case management discussion on 15 March 2018 to clarify the Applicants' position vis-à-vis a potential duplicity of filings entailing the question of *litis pendentio*.

7. On 16 March 2018, the Applicants filed submissions confirming, *inter alia*, that it was undisputed that management evaluation responses had been transmitted to and received by the Applicants at the time of filing of the 16 October 2017 applications, and that the responses pertained to the same decision and Applicants.

8. On 14 June 2018, the Tribunal issued Order No. 098 (NBI/2018) requiring the Applicants to file submissions stating which of the replicated applications would be withdrawn.

9. On 18 June 2018, the Applicants filed a motion in which it is submitted:

The Applicant takes note that the Tribunal [is] currently seized of two sets of identical applications contesting the 19-20 July 2017 decision regarding the Geneva pay cut both filed after receipt of management evaluation.

Understanding that these applications are duplicative since both sets meet the formal requirements for contesting the decision under Article 8 (d) (i) the Applicant hereby respectfully seeks leave to withdraw the Applications currently registered as UNDT/NBI/2018/16 and UNDT/NBI/2018/13.

**IT IS ORDERED THAT**

10. The Applicant's motion for withdrawal of both cases is granted.

11. Cases UNDT/NBI/2018/013 and UNDT/NBI/2018/016 be struck off the Court's docket.

Case Nos. UNDT/NBI/2018/013

UNDT/NBI/2018/016

Order No. 100 (NBI/2018)

*(Signed)*

Judge Agnieszka Klonowiecka-Milart

Dated this 20<sup>th</sup> day of June 2018

Entered in the Register on this 20<sup>th</sup> day of June 2018

*(Signed)*

Legal Officer, for,  
Abena Kwakye-Berko, Registrar, Nairobi