



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NBI/2017/074  
Order No.: 208 (NBI/2019)  
Date: 5 December 2019  
Original: English

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**Before:** Judge Rachel Sophie Sikwese

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

APPLICANT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON AN APPLICATION FOR  
CHANGE OF VENUE**

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**Counsel for the Applicant:**

Daniel Trup, OSLA

**Counsel for the Respondent:**

Nicole Wynn, AAS/ALD/OHR

Nusrat Chagtai, AAS/ALD/OHR

## **Background**

1. On 18 August 2017, the Applicant filed an application challenging the decision regarding the outcome of her ST/SGB/2008/5 (Prohibition of Discrimination, Harassment including Sexual Harassment and Abuse of Authority) complaint and the irregular process and requests a copy of the Panel's report. The Applicant filed amended pleadings and additional documents on 12 October 2017.
2. The Respondent filed his reply to the application on 18 September 2017 and additional documents on 26 October 2017.
3. The parties filed a joint submission of facts and issues on 23 April 2019 in compliance with Order No. 011 (NBI/2019).
4. On 12 June 2019, the Tribunal issued Order No. 074 (NBI/2019) addressing issues raised at the case management discussion held on 4 June 2019. These issues related to the conduct of the case including on the role of the Tribunal, evidentiary matters, and procedure. The matter was set down for hearing in January 2020 in Nairobi.
5. On 7 November 2019, the parties were advised that the case was transferred to the current Judge and that hearing would proceed in January 2020 as previously scheduled.
6. On 29 November 2019, the Applicant moved for the matter to be transferred to the Dispute Tribunal sitting in New York to allow the Applicant a fair opportunity to fully follow the proceedings considering the sensitive nature of the allegations and that all concerned parties including counsel are based in New York.
7. The Tribunal served the Motion on the Respondent and invited his submissions in response to the Applicant's application to transfer the matter to the New York Registry, if any, by 3 December. As of the date of this Order, no submission was

recorded.

### **Considerations**

8. Filing of cases in the Dispute Tribunal Registries is governed by art. 6 of the UNDT Rules of Procedure providing that “an application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations”.

9. After an application is filed to the appropriate Registry based on the above considerations, a party may apply for a change of venue, see art. 6.2 of the Rules of Procedure.

10. In considering the application, the Tribunal shall be guided by the statutory principles outlined above. The Applicant bears the burden of showing the Tribunal that the change of venue does not violate the requirement to consider geographical and other relevant factors.

11. The Applicant has outlined the relevant materials including geographical proximity of concerned parties and counsel in the case to the preferred Registry.

12. The application is unopposed.

### **Orders**

13. In accordance with art. 19 of the Rules of Procedure of the Tribunal on management of proceedings as read with art. 6 on change of venue, the application is granted to transfer this case from the United Nations Dispute Tribunal, Nairobi Registry to the New York Registry.

14. The Tribunal directs the Registry in Nairobi to effect the necessary arrangements for the transfer of the file to the Registry in New York bearing in mind the concerns of the Applicant that the matter has been long outstanding.

*(Signed)*

Judge Rachel Sophie Sikwese

Dated this 5<sup>th</sup> day of December 2019

Entered in the Register on this 5<sup>th</sup> day of December 2019

*(Signed)*

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