



**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

MBOGOL

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER RESCHEDULING THE  
HEARING**

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**Counsel for the Applicant:**  
Self-represented

**Counsel for the Respondent:**  
Nicole Wynn, AAS/ALD/OHR  
Rosangela Adamo, AAS/ALD/OHR

## **Introduction**

1. By Order No. 030 (NBI/2020), the Tribunal informed the parties of its decision to hold a hearing on 26 and 27 February 2020 and directed the parties to undertake to produce an agreed schedule for the hearing and inform the Tribunal accordingly by 14 February 2020. Counsel for the Respondent was also directed to file with the Registry an agreed and paginated bundle of the documents which the parties intend to rely upon at the hearing by 18 February 2020.

2. On 14 February 2020, the parties were informed that the Tribunal had been forced to reschedule the hearing of the case from 26 - 27 February 2020 and invited them to select either 11-12 March 2020 or 1-2 April 2020 as new hearing dates.

3. On the same day, 14 February 2020, the Respondent filed a list of the witnesses he intends to call at the hearing. Counsel for the Respondent informed the Tribunal that she had tried to confer with the Applicant to produce an agreed schedule but the Applicant was not able to cooperate because she could not access her case file through the Court Case Management System (CCMS). The Respondent indicated that 11-12 March was the preferred date due to availability of his witnesses.

4. The Applicant in her filing of 14 February 2020 informed the Tribunal that all her proposed witnesses had declined to testify. She expressed preference for a hearing from 1 - 2 April 2020 but also requested that the case be referred to mediation. She also submitted a list of documents “relevant to her case” some of which she does not have access to including:

- a. Jurisprudence on the Comparative Review Process (CRP) candidate related issues;
- b. Documents related to the CRP at the P-4 level in the Performance Appraisal System (PAS), including the terms of reference used;
- c. Office correspondence on CRP;

- d. CRP candidates work employment history before and after 2017;
- e. Political Affairs staffing lists for 2018-2019 and 2019-2020;
- f. Other relevant correspondence; and
- g. Correspondence related to administrative matters in the office.

## **ORDERS**

5. By 24 February 2020, the Respondent is requested to indicate whether the circumstances for which the Applicant proposed witnesses are disputed and, if so, which ones and to what extent. Based on the Respondent's response, the Tribunal will decide on the necessity of calling the Applicant's witnesses.

6. As concerns the list of documents the Applicant considers to be relevant to the case, the Applicant is directed to either file specific documents with an explanation of their relevance or, to the extent that she appears to be seeking disclosure of documents in the Respondent's possession, she must identify precisely which documents she wants to be disclosed and their relevance to the subject of the application. Absent an appropriate filing by 24 February 2020, no documents will be sought.

7. The Tribunal instructs the Applicant that submissions requesting "correspondence related to administrative matters", or similar generalia, will not be entertained. Neither will the Tribunal supply the Applicant with relevant jurisprudence, which is publicly available on the UNDT and UNAT websites.

8. Considering the availability of the Respondent's witnesses, the hearing in the matter of *Mbogol v. The Secretary-General of the United Nations* shall now be held from 11 - 12 March 2020, commencing each day at 1000 hours, Nairobi time (GMT+3) in the UNDT Courtroom. Should the need to call the Applicant's witnesses arise, these will be accommodated as appropriate, including through adjournment as necessary.

9. In accordance with art 16.4 of the Rules of Procedure, the parties or their duly designated representatives must be present at the hearing either in person or, where

unavailable or where directed by the Tribunal, by electronic means. If any of the parties or their witnesses intend to appear by electronic means, they shall provide the Registry with all relevant contact information before the hearing date.

10. The parties and their witnesses are reminded that recording of courtroom proceedings is not permitted.

11. It is the responsibility of the parties to ensure the availability of their witnesses for the hearing.

12. By or before 5 March 2020, the Respondent shall file with the Registry an agreed and paginated bundle of the documents which the parties intend to rely upon at the hearing. For this purpose, the Respondent may require the Applicant to respond within a deadline failing which the Respondent will make a filing on his own. The bundle shall contain an index of the documents contained therein.

*(Signed)*

Judge Agnieszka Klonowiecka-Milart

Dated this 18<sup>th</sup> day of February 2020

Entered in the Register on 18<sup>th</sup> day of February 2020

*(Signed)*

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