



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/112  
Order No.: 090 (NBI/2020)  
Date: 12 May 2020  
Original: English

---

**Before:** Judge Eleanor Donaldson-Honeywell  
**Registry:** Nairobi  
**Registrar:** Abena Kwakye-Berko

EL HASROUNI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**ORDER ON CASE MANAGEMENT**

---

**Counsel for the Applicant:**  
Antoine Saad

**Counsel for the Respondent:**  
Susan Maddox, AAS/ALD/OHR, UN Secretariat  
Elizabeth Gall, AAS/ALD/OHR, UN Secretariat

## **Introduction and Procedural History**

1. The Applicant served as a Geospatial Information Officer at the United Nations Multidimensional Integrated Stabilisation Mission in Mali (“MINUSMA”). He held a fixed term appointment at the FS-5 level.
2. On 12 November 2018, the Applicant challenged the Respondent’s decision to separate him from service with compensation *in lieu* of notice and termination indemnity in accordance with staff rule 10.2(a)(viii). It is the Applicant’s case that the impugned decision should be rescinded on grounds that his actions were the result of the medical condition he suffered from and was therefore not deliberate.
3. The Respondent filed his reply to the application on 14 December 2018.
4. On 17 April 2020, the Tribunal issued Order No. 073 (NBI/2020) setting this matter down for a case management discussion (“CMD”). The Applicant did not respond to the order, which resulted in the CMD being cancelled. The Presiding Judge directed the Registry to write to the Applicant to ascertain receipt of the Tribunal’s order and for a rescheduling of the CMD.
5. On 8 May 2020, the CMD took place in the presence of counsel for both parties and the Applicant.

## **The Discussion**

6. Both parties agreed to engage in settlement discussions. The Tribunal encourages the parties to undertake these discussions in whichever language the Applicant is most comfortable in, so that the matters being discussed are fully understood.

7. The Presiding Judge indicated the preliminary view that this matter will require an oral hearing of expert medical evidence if the parties are unable to come to a settlement between them. Alternatively, she suggested that supplemental medical evidence could be submitted in writing. However, there was no request by the Applicant to submit further evidence. The Respondent expressed the view that the matter should be determined on the papers based on the medical evidence on which the impugned decision was made. The Applicant preferred that there would be a trial where he would give oral testimony.

8. The Tribunal directed the Respondent to address it on whether the Organization knew since 2014 of the matters explained in the medical report dated 5 April 2018 as being part of the major depressive disorder that was diagnosed in 2014. The Tribunal also enquired into whether the therapeutic support that was indicated was in fact provided. The various medical reports give different levels of detail on the Applicant's condition when he was cleared to return to work. The Respondent undertook to seek further clarification from medical services and address the Tribunal in written submissions.

9. The Applicant indicated that he continues to require, by way of remedies, that the charges are withdrawn, sanction is voided and that he is reinstated. To this end, the Tribunal advised the Applicant to familiarize himself with the jurisprudence of the Dispute Tribunal on remedies in disciplinary matters, particularly with regard to reinstatement. This would be especially useful for the *inter partes* settlement discussions.

## Orders

10. The Tribunal makes the following Orders:

- a) The parties will jointly submit on the progress of their *inter partes* discussions by **Monday, 18 May 2020**.
- b) The Respondent will address the Tribunal on whether the Organization was aware of the Applicant's illness and the extent of their knowledge by **Friday, 22 May 2020**;

11. In the interest of efficient use of the Tribunal's resources and the expeditious conduct of proceedings, the Tribunal, pursuant to articles 10.3 of the UNDT Statute and 15.1 of the Rules of Procedure, and being mindful of paragraph 27 of General Assembly resolution 69/203 (Administration of justice at the United Nations), strongly urges the parties in this matter to consult and deliberate on having this matter informally resolved or mediated.<sup>1</sup> The Tribunal firmly believes that a settlement in good faith would be in both their interests.

12. The Tribunal commends the parties for their stated willingness to engage in settlement discussions.

13. The undersigned Judge reminds the parties that as her current term with the Dispute Tribunal in Nairobi is limited to three months, they must strictly adhere to the timelines that are set.

---

<sup>1</sup> Paragraph 27 states: "*Recalls* the emphasis placed by the General Assembly on the resolution of disputes, and requests the Secretary-General to report on the practice of proactive case management by the judges of the United Nations Dispute Tribunal in the promotion and successful settlement of disputes within the formal system in his next report".

*(Signed)*

Judge Eleanor Donaldson-Honeywell

Dated this 12<sup>th</sup> day of May 2020

Entered in the Register on this 12<sup>th</sup> day of May 2020

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi