



**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

MBOGOL

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON SUSPENSION OF  
PROCEEDINGS AND REFERRAL TO  
MEDIATION**

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**Counsel for the Applicant:**

Costin Simiyu Mulongo, Costin & Webster Law

**Counsel for the Respondent:**

Nicole Wynn, AAS/ALD/OHR,  
Rosangela Adamo, AAS/ALD/OHR,

## **Introduction**

1. The Applicant is a former staff member of the United Nations – African Union Hybrid Operation in Darfur (“UNAMID”). She is challenging a decision that she characterizes as a “decision not to rewrite [her] September 2016-March 2017 performance evaluation in order to correct and finalize the document as instructed by the Chief HR on 19 October 2017, and its consequences”, among them, that she was not retained in service during a downsizing exercise. Based on the material before it, the Tribunal is satisfied that the Applicant’s performance evaluation had a decisive role for her score in the comparative review exercise and, consequently, for the decision on her separation. Noting that the Applicant was precluded from using the rebuttal procedure, and having found *prima facie* contradictions in the performance evaluation, the Tribunal sought to verify if the performance evaluation was fair and the apparent irregularity had a material impact on its outcome.

2. On 11 and 12 March 2020 and 8 September 2020, the Tribunal heard evidence from the Applicant and six witnesses. In light of the Applicant’s interest in mediating her claim, at the conclusion of the hearing on 8 September, the Tribunal suspended the hearing and gave Respondent’s Counsel until 21 September to decide whether mediation would be possible.

3. On 21 September 2020, Respondent’s Counsel informed the Tribunal that UNAMID is amenable to the Tribunal formally referring the case to the United Nations Ombudsman and Mediation Services (“UNOMS”) for mediation.

4. The Tribunal commends that parties for agreeing to seek informal resolution of this matter and strongly urges them to deliberate in good faith.

## **ORDERS**

5. The present case is hereby referred to UNOMS for mediation pursuant to art. 15 of the Tribunal’s Rules of Procedure.

6. The Registry is directed to serve a copy of this Order on UNOMS.

7. The parties and/or UNOMS should advise the Tribunal **by 30 October 2020** whether the case has been resolved. If so, the Applicant shall confirm to the Tribunal, in writing, that her application is withdrawn.

8. The proceedings in the matter of *Mbogol v Secretary General of the United Nations* (UNDT/NBI/2018/088) are hereby suspended pending mediation.

*(Signed)*

Judge Agnieszka Klonowiecka-Milart

Dated this 22<sup>nd</sup> day of September 2020

Entered in the Register on this 22<sup>nd</sup> day of September 2020

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi