



Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

WATHANAFI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE PARTIES' MOTIONS
FOR PRODUCTION OF DOCUMENTS**

Counsel for the Applicant:

Sétondji Roland Adjovi, *Etudes Vihodé*

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR, UN Secretariat

Maureen Munyolo, AAS/ALD/OHR, UN Secretariat

Introduction

1. On 8 July 2022, the Respondent filed a motion for leave to produce annexes 7 and 8. Annex 7 is an update to the Applicant's personnel action history, which the Respondent had submitted as Annex 1 while Annex 8 is the Applicant's check-out memorandum.
2. On 11 July 2022, the Applicant also submitted a motion for production of documents. By that motion, the Applicant seeks orders that the Respondent produces:
 - a. the list of vacant positions with the Disarmament, Demobilization and Reintegration ("DDR") sections in the United Nations Multidimensional Integrated Stabilization Mission in Mali ("MINUSMA") and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic ("MINUSCA") at the time of her separation; and
 - b. the staffing with DDR section of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo ("MONUSCO") and the status of the national posts that were supposed to replace her.
3. On 15 July 2022, the Respondent filed a response and opposed the Applicant's motion.

Deliberations

4. The Respondent's motion for leave to produce an update to the Applicant's personnel action history, which confirms that the Applicant was separated on 19 July 2022, and a check-out memorandum to the Applicant dated 19 July 2021 from the Chief of Section, Human Resources Management, which confirms that the Applicant's fixed-term appointment was not renewed beyond 19 July 2021 are relevant and necessary for the determination of the issues in the case. Noting that the Applicant did not object to their production, the motion to produce them is allowed.

5. With regard to the Applicant's motion seeking an order for production of the list of vacant positions with the DDR section in the relevant missions at the time of her separation, and for an order that the Respondent produces the staffing with the DDR section of MONUSCO and the status of national posts that were supposed to replace her, the Tribunal determines that she is embarking on a fishing expedition. There is no evidence that the information and documents which she seeks are available. Additionally, and as submitted by the Respondent, if the information exists, it is accessible to the Applicant on *Inspira* and so there is no legal or equitable basis for requiring the Respondent to produce it.

6. The other arguments raised by the Respondent, such as that even if there were suitable vacancies in other missions, there was no obligation to renew the Applicant's fixed term appointment go to the merits of the main application. The Tribunal will therefore, not address them since doing so may prejudice its decision on the merits of the application.

7. Based on the above;

- a. The Respondent's motion for leave to produce documents is granted.
- b. The Applicant's motion for production of documents is rejected.

(Signed)

Judge Margaret Tibulya

Dated this 22nd day of July 2022

Entered in the Register on this 22nd day of July 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi