



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2024/029

Order No.: 50 (NBI/2023)

Date: 30 April 2024

Original: English

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**Before:** Judge Sean Wallace

**Registry:** Nairobi

**Registrar:** René M. Vargas M., Officer-in-Charge

DOBENG

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON A MOTION  
FOR EXTENSION OF TIME  
TO FILE AN APPLICATION**

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**Counsel for Applicant:**

Lejukole Noel Marle

**Counsel for Respondent:**

AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees in Bunj, South Sudan, was separated from service on 24 November 2023, pursuant to staff rule 10.2 (a)(ix) for misconduct.

2. On 25 April 2024, he filed a motion for extension of time to file an application before the United Nations Dispute Tribunal sitting in Nairobi to challenge the above-mentioned separation decision.

## **Consideration**

3. Article 8.3 of the Statute of the Dispute Tribunal, read together with art. 35 of the Tribunal's Rules of Procedure, affords the court the power to shorten or extend the deadline to file an application where the interests of justice so require.

4. A motion for extension of time must however be brought before the deadline for the filing of a substantive application has expired. This requirement has not been met in this case. See, e.g., *Nikwigize* 2017-UNAT-731, paras. 18-21. Thus, this Tribunal lacks jurisdiction to consider whether there were exceptional circumstances to extend the deadline for filing an application (*Id.* at para. 20).

5. Moreover, mindful of the Appeals Tribunal's ruling in para. 20 of *Gelsei* 2020-UNAT-1035 (para. 20), even if the Tribunal had jurisdiction, the facts in this case do not show that there were exceptional circumstances. In his motion, the Applicant pleads that his previous private counsel "poorly advised" him to file his complaint against the disciplinary decision with "the local institution (Labour Ministry) in South Sudan", and that as a lay person he was not himself aware of the rules.

6. The record, however, shows that the sanction letter sent to the Applicant on 24 November 2024 clearly informs him of the process ahead of him. Specifically, the letter reads (emphasis added):

any staff member against whom a disciplinary measure has been imposed following the completion of a disciplinary process may submit an application challenging the imposition of such measures **directly to the United Nations Dispute Tribunal**, in accordance with chapter XI of the UN Staff Regulations and Rules, within 90 days from the receipt of this notification.

7. The Applicant's signature appears not only on the first but, particularly, on the last page of the sanction letter, which contains the above notice, as acknowledgment of its receipt. Thus, any reasonable person would know that the proper forum to challenge the disciplinary decision was the United Nations Dispute Tribunal, any advice to the contrary notwithstanding.

8. Consequently, the grounds the Applicant advanced for failing to file a timely application with this Tribunal, after having been given explicit notice of that requirement, do not constitute exceptional circumstances.

### **Conclusion**

9. In view of the foregoing, it is ORDERED THAT the motion for extension of time to file an application is denied.

(Signed)

Judge Sean Wallace

Dated this 30<sup>th</sup> day of April 2024

Entered in the Register on this 30<sup>th</sup> day of April 2024

*(Signed)*

René M. Vargas M., Officer-in-Charge, Nairobi