



**Before:** Judge Sean Wallace  
**Registry:** Nairobi  
**Registrar:** Wanda L. Carter

BUBEGA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**ORDER  
ON CASE MANAGEMENT**

---

**Counsel for the Applicant:**

Ana Giulia Stella, OSLA

**Counsel for the Respondent:**

Wei Zhuang, AAS/ALD/OHR, UN Secretariat  
Talha Konukpay, AAS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant served the Organization as a Disarmament, Demobilization and Reintegration Assistant at the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) on a fixed term appointment at the G4 level. He retired on 31 December 2023 after 17 years of service.
2. On 12 July 2024, the Applicant filed an application with the United Nations Dispute Tribunal sitting in Nairobi to challenge the Respondent's decision to delay the payment of his pension benefit upon retirement on grounds that he was being investigated for medical insurance fraud. It is the Applicant's case that the impugned decision was unlawful, and that it caused him "financial loss and moral harm" for which he should be compensated.
3. The Respondent replied on 15 August 2024.
4. The Applicant filed his rejoinder to the reply on 11 November 2024.
5. The Tribunal issued Order No. 163 (NBI/2024) setting this matter down for a case management discussion on 14 January 2025.

## **The Discussion**

6. The Tribunal drew the parties' attention to Order No. 046 (NBI/2024), which was issued following an application for suspension of action (SOA) by the same Applicant regarding the same decision to withhold his pension paperwork.
7. The Tribunal said then:

The facts of this case, and the plethora of similar cases in this Tribunal arising from alleged medical insurance fraud in MONUSCO, raise troubling concerns about how these allegations are being handled by the Organization.

It appears that OIOS/MONUSCO frequently do not bring these MIP fraud investigations to conclusion, neither clearing the innocent nor charging the guilty. Instead, the investigations languish inactive for years. Then when the involved staff member separates from service,

the Administration grabs the departing staff member's final entitlements under the guise of a pending investigation. At that point the staff members are left without access to their earned entitlements and with no other choice than to file with the Tribunal.

If this appearance is true, it is an unfair state of affairs to both the Organization and the staff members. If the investigations were concluded and allegations disproven, the staff member could have the cloud of suspicion lifted and would receive their entitlements and pension without delay upon separation. If the investigations were concluded and the allegations proven, the Organization could bring disciplinary actions against the staff members and/or arrange repayment at a time when the staff members are employed and thus with income to make such repayments. In either case, failing to conclude the investigations harms both the Organization and its staff members.

In the limited context of an SOA there is insufficient evidence to refer the matter to the Secretary-General for enforcement of accountability. However, **should such a case come before the Tribunal on the merits, the undersigned judge would expect the Respondent to produce evidence of legitimate investigative activity over the years in question, along with details about all the MIP fraud cases handled by OIOS/MONUSCO in this manner** including the ultimate resolution of those allegations. If that evidence confirms the suspicions that have arisen in this case (and prior cases), a referral for accountability might be issued. [Emphasis added]

8. Counsel for the Respondent briefed the Tribunal on the logistical and resource challenges that have hamstrung the Organisation in MIP fraud investigations, which now include more than 225 cases. Counsel also made the point that the regulatory framework does not stipulate timelines for the completion of investigations.

9. Be that as it may, the Tribunal referred to Order No. 046 (NBI/2024) and directed the Respondent to submit evidence of the investigative activity that was taken in connection with this case from the date on which the Administration received the report of possible misconduct (apparently on 30 December 2020) until the date of the decision to withhold the Applicant's final entitlements and pension paperwork. This includes, but is not limited to, what action was taken between the interview of the Applicant on 13 August 2021 and the decision.

10. In order to determine whether any delays in this case are an aberration or examples of systematic problems, the Tribunal also directed the Respondent to submit similar information for all of the 225 MONUSCO MIP fraud investigations.

11. On the issue of adjudication of this matter, both parties agree that this case can be determined on the basis of the written record and that there is no need for an oral hearing.

12. The Tribunal strongly encouraged the parties, and the Respondent especially, to consider resolving this matter *inter partes*.

### **Order**

13. The Tribunal issues the following ORDERS:

- a. On or before 3 February 2025, the Respondent will provide all evidence of legitimate investigative activity in connection with this case from the date on which the Administration received the report of possible misconduct by the Applicant (apparently on 30 December 2020) until the decision to withhold the Applicant's final entitlements and pension paperwork;
- b. On or before 3 March 2025, the Respondent will provide all evidence of legitimate investigative activity in connection with every MIP fraud case handled by OIOS/MONUSCO, including the dates thereof, and the ultimate resolution of the allegations;
- c. On or before 3 March 2025, the Parties will apprise the Tribunal of the status of their settlement discussions;
- d. On or before 3 March 2025, the parties will file their respective closing submissions regarding the specific claims in the instant case;
- e. On or before 17 March 2025 the parties will file their respective closing submissions regarding the systemic handling of MIP fraud cases by OIOS/MONUSCO; and

Case No. UNDT/NBI/2024/047

Order No. 4 (NBI/2025)

f. These deadlines and requirements will not apply if the parties apprise the Tribunal that they have resolved the dispute in this case.

*(Signed)*

Judge Sean Wallace

Dated this 15<sup>th</sup> day of January 2025

Entered in the Register on this 15<sup>th</sup> day of January 2025

*(Signed)*

Wanda L. Carter, Registrar, Nairobi