



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/099
Order No.: 177 (NBI/2025)
Date: 3 October 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

TUSUMBA OPENGE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR EXTENSION OF TIME
TO FILE AN APPLICATION**

Counsel for Applicant:

Roland Adjovi
Anthony Wilson

Counsel for Respondent:

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

Introduction

1. The Applicant served as an Associate Protocol Officer with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).
2. The Applicant was separated from service on 24 July 2025 and wishes to challenge that disciplinary measure. He has moved to extend the time for filing his application with the Tribunal.

Facts and Procedural History

3. Under the Dispute Tribunal Statute and its Rules of Procedure, in cases where management evaluation is not required (such as imposition of a disciplinary measure) an application must be filed within “90 calendar days of the applicant’s receipt of the administrative decision”. Statute art. 8(d)(ii) and Rule art. 7.1(c). In this case, the deadline for filing the application is 22 October 2025. The Applicant submits that he needs an additional 45 days to file the application.
4. It appears from the record that the Applicant sought counsel from the Office of Staff Legal Assistance (OSLA) the day after receiving the disciplinary decision. On 16 September 2025, OSLA informed the Applicant that they would not be representing him. That was nearly two months of the three months deadline for filing an application.
5. The Applicant immediately secured the services of private counsel who submits that “the Applicant was not able to produce a full investigation dossier for review towards an application on the merits because he no longer has access to his UN files after his separation. Counsel will therefore need to engage with the Respondent for the full records in order to build the challenge accordingly”.
6. The Respondent urges the Tribunal to deny the Applicant’s motion because “the time for him to secure legal representation does not meet the threshold of exceptional circumstances as contemplated under Article 8.3 of the UNDT Statute”.

Considerations

7. The Tribunal has considered the parties' submissions and finds that the circumstances described by the Applicant do qualify as exceptional circumstances within the meaning of art. 8.3 of the Statute of the Dispute Tribunal. The Applicant was not dilatory in seeking legal representation from OSLA which is created "to assist staff members...in processing claims through the formal system of administration of justice". A/RES/63/253, para. 23. OSLA's inexplicable tardiness cannot prejudice the Applicant in his challenge before the Dispute Tribunal.

8. In *Ruger* 2016-UNAT-693, the Appeals Tribunal held that "[a] waiver of time can be justified under Article 8(3) of the UNDT Statute only if the applicant shows that exceptional circumstances beyond his or her control prevented him or her from acting within the statutory time limits".

9. On the facts before the Tribunal, the Tribunal is persuaded that OSLA's delay constitutes "exceptional circumstances beyond [the Applicant's] control". Additionally, the Respondent does not assert that a reasonable time waiver would prejudice him in any way. Thus, it is reasonable to grant the Applicant additional time within which to file an application.

10. Given that counsel for the Applicant secured access to the case file on 29 September 2025, the Tribunal finds it unnecessary to grant the extension for the full 45 days requested.

Order

11. The Motion for Extension of Time to File an Application is GRANTED.

12. The Applicant must file his application on or before **17 November 2025**.

13. Additionally, the Registry is directed to serve a copy of this order on the Chief of the Office of Staff Legal Assistance for appropriate action to ensure that such undue delay does not occur in future cases.

(Signed)

Judge Sean Wallace

Dated this 3rd day of October 2025

Entered in the Register on this 3rd day of October 2025

(Signed)

Isaac Endeley, for, Wanda L. Carter, Registrar, Nairobi