



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2025/088
Order No.:	241 (NBI/2025)
Date:	26 November 2025
Original:	English

Before: Duty Judge
Registry: Nairobi
Registrar: Wanda L. Carter

TOHME

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON RESPONDENT'S MOTION TO
FILE ADDITIONAL EVIDENCE**

Counsel for Applicant:
Kalaycia Clarke, OSLA

Counsel for Respondent:
Louis-Phillipe Lapicerella, UNHCR
Marietta Hristovski, UNHCR

Introduction

1. The Applicant was a Liaison Officer with the United Nations High Commissioner for Refugees (“UNHCR”). He filed an application challenging a 28 May 2025 decision to abolish his post with less than the notice required under the Resource Allocation Framework (“RAF”) of UNHCR. The Applicant further challenges the decision to terminate his appointment due to post abolition.

2. On 6 November 2025, this Tribunal issued Order No. 216 (NBI/2025) which, *inter alia*, indicated that “the Tribunal will proceed to determine the matter based on the documents already on the record and any closing submissions filed.” The order also directed that closing submissions be filed by Monday, 8 December 2025.

3. On 21 November 2025, the Respondent filed a Motion to for Leave to File Additional Evidence, in which it presented three documents:

a. An UNHCR broadcast from the High Commissioner dated 5 October 2025 entitled “Corrigendum - Update on institutional developments and financial situation” (R-21);

b. Minutes of a Joint Advisory Committee meeting on 27 October 2025, entitled “Draft HR related provisions of position management – Procedures on 2026 Resource Allocation and Management” (R-22); and

c. A UNHCR broadcast from the Director of the Division of People Management dated 28 October 2025, entitled “Management of staff positions for the 2026 planning cycle” (R-23).

4. In its motion, the Respondent submits that these three documents “will help the Tribunal by clarifying facts in dispute in this case and assist in the fair and expeditious disposal of these proceedings.”

5. It further avers that the documents go to the lawfulness of the case and would allow the Applicant to comment on these new documents in his closing submissions.

Consideration

6. Article 18 of the UNDT Rules of procedure provides that

1. The Dispute Tribunal shall determine the admissibility of any evidence.

2. The Dispute Tribunal may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings.

...

5. The Dispute Tribunal may exclude evidence which it considers irrelevant, frivolous, or lacking in probative value.

7. In exercising its discretion whether to admit the evidence proposed by the Respondent, the Tribunal's primary consideration is whether evidence proffered by the Respondent has probative value and is relevant to the facts at issue in this case.

8. In his application, the Applicant specifically challenges the decision of the High Commissioner to unilaterally and substantively modify the notice (of termination) provisions of the RAF by email broadcast as unlawful, and that the broadcast failed to show "exceptional circumstances" to allow to justify the modification.

9. The documents submitted by the Respondent are all in support of action taken by the High Commissioner in October 2025. Further, they all purport to refer to action taken or communication made in respect of the "2026 planning cycle." The memo from the Director (R-23) specifically allows that JAC reviewed the exceptions to the RAF made on 24 March 2025, and made recommendations to be reflected in "revised procedures for the 2026 planning cycle."

10. It is not disputed that the contested decision to terminate the Applicant's contract was made in May 2025, based on modifications made to the RAF in March to May 2025. Therefore, the subsequent procedures undertaken to further modify or extend the modifications for the 2026 cycle are not germane to the Applicant's May 2025 termination.

Conclusion

11. In view of the foregoing, it is ORDERED THAT

a. the Respondent's motion to file additional evidence is rejected; and

b. the parties shall not reference the proffered documents in their closing submissions, nor will those documents be considered by the Tribunal in reaching its judgment.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 26th day of November 2025

Entered in the Register on this 26th day of November 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi