



UNITED NATIONS DISPUTE TRIBUNAL

Case Nos.:	UNDT/NBI/2025/001
	UNDT/NBI/2025/023
Order No.:	21 (NBI/2026)
Date:	21 January 2026
Original:	English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

BAGUMA CHIZIMYA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON THE RESPONDENT'S MOTION TO ADDUCE NEW FACTS

Counsel for the Applicant:

Kalaycia Clarke, OSLA

Counsel for the Respondent:

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

Background

1. Pursuant to Order No. 86 (NBI/2025), dated 13 June 2025, the parties filed their closing submissions in this consolidated case on 27 June 2025.
2. On 20 January 2026, the Respondent filed a motion seeking leave to adduce a new “fact” a Sanction Letter dated 19 January 2026 issued to the Applicant. In support of the motion, the Respondent submits that:
 - a. The Sanction Letter provides updates on the development of the case that formed the basis of the contested decision;
 - b. The Sanction Letter is directly relevant as it concerns the financial loss and indebtedness for which the final entitlements were withheld and the issuance of the Applicant’s P.35 form and PF.4 form was put on hold;
 - c. The Sanction Letter sets out the basis for such findings as well as detailed considerations of the Applicant’s comments, it will assist the Tribunal in determining the lawfulness of the contested decision and demonstrate the injustice that would result from granting the Applicant’s request in his applications;
 - d. By the Sanction Letter the Organization has recovered the withheld amount of USD8,452.24 from the Applicant’s final separation entitlements which represents part of the Applicant’s indebtedness to the Organization;
 - e. The decision set out in the Sanction Letter makes it inequitable to direct the Organization to return the withheld amount to the Applicant which is critical to the adjudication of the present matter; and
 - f. The Sanction Letter is directly relevant to the duration or effect of the contested decision and because the withholding of the P.35 form is now based on the letter, and no longer on the contested decision.

Considerations

3. The Respondent has filed the motion under art. 12.1 of the UNDT Statute which provides that:

Either party may apply to the Dispute Tribunal for a revision of an executable judgement on the basis of the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

The Respondent submits that “[c]onsistent with this provision, the Tribunal should be apprised of relevant facts that came to light after the filing of closing submission but prior to the issuance of the judgment.”

4. A plain reading of art. 12.1 restricts its application to an “executable judgement”. There is presently no executable judgment in this consolidated case and therefore the Respondent’s motion has no basis.

5. Assuming *arguendo*, that the Respondent, who was represented by the same counsel in Case No. UNDT/NBI/2024/047 (where a similar motion was rejected by the Tribunal (Order No. 83 (NBI/2025))), was seeking to obtain a more favourable outcome in having the Sanction Letter adduced into the case record as a new fact rather than as new evidence, the same analysis would have applied.

6. In exercising its discretion whether to admit the evidence proposed by the Respondent, the Tribunal’s primary consideration is whether the Sanction Letter has probative value and is relevant to the facts at issue in this case. The Sanction Letter is dated 19 January 2026 and was not in existence at the time the contested decision was taken and thus could not have been considered by the decision-maker. In that scenario, the Tribunal would have determined that the proffered evidence is neither probative nor relevant to the issue before it in this case, that is whether the contested decision was lawful.

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Conclusion

7. In view of the foregoing, the Respondent's motion to adduce the Sanction Letter as a new fact is rejected.

(Signed)

Judge Sean Wallace

Dated this 21st day of January 2026

Entered in the Register on this 21st day of January 2026

(Signed)

Wanda L. Carter, Registrar, Nairobi