



**Before:** Judge Ebrahim-Carstens

**Registry:** New York

**Registrar:** Santiago Villalpando

YISMA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON REQUEST FOR EXPEDITED  
HEARING**

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**Counsel for Applicant:**  
Brian Gorlick, OSLA

**Counsel for Respondent:**  
Thomas Elftmann, UNDP

Notice: This Order has been formatted for publication purposes.

## **Introduction**

1. On 11 February 2011 the Applicant, a staff member of the Multi-Donor Trust Fund Office of the United Nations Development Programme (“UNDP”), filed an application contesting the disciplinary measure of separation from service with notice and termination indemnity.

2. The contested decision was based on the findings of an investigation conducted during December 2009 and January 2010 by the Office of Audit and Investigations of UNDP, which established, *inter alia*, that the Applicant had submitted falsified information to the New York City Housing Development Corporation. The Applicant seeks rescission of the contested decision and reinstatement to her original post with full restoration of her employment benefits.

3. The contested decision was communicated to the Applicant by a letter dated 1 December 2010 and received by the Applicant on 5 December 2010. In a submission filed pursuant to Order No. 43 (NY/2011), the Respondent stated that the Applicant will be separated from service on 9 March 2011.

4. On 11 February 2011 the Applicant also filed a separate submission entitled “Motion for Confidentiality and Request for Expedited Hearing”. This motion contains two requests: (i) that the matter be heard on an expedited basis; and (ii) that any hearings be closed to the public and that the Applicant’s name be omitted from any rulings. The Applicant submits that, upon her separation, she will be without any income. According to the Applicant, the poor employment climate, her lack of job prospects, loss of health insurance, and need for medical treatment make it important for the hearing to be held and the case to be adjudicated by the Tribunal at the earliest opportunity.

5. On 18 February 2011, in response to Order No. 43 (NY/2011), the Respondent filed a submission stating that he had no objection to having the case heard on an expedited basis.

6. On 22 February 2011 the Applicant filed and served a separate application seeking the Tribunal to grant temporary relief until it renders a final judgment in her case. The Respondent's reply to this application was filed on 25 February 2011. On 1 March 2011 the Tribunal held a hearing on the application for temporary relief. At this hearing, the parties also made oral submissions with respect to the Applicant's request for an expedited hearing and it became evident to the Tribunal that the facts in this case are common cause.

7. By Order No. 64 (NY/2011), issued on 1 March 2011, the Tribunal denied the Applicant's request for temporary relief.

### **Consideration**

8. Pursuant to art. 10 of the Tribunal's Rules of Procedure, the Respondent has 30 calendar days from the date of receipt of the application to submit his reply to the application. Pursuant to Order No. 43 (NY/2011), on 15 February 2011, the New York Registry of the Tribunal transmitted the application to the Respondent and informed Counsel for the Respondent that the Respondent's reply was due on or before 17 March 2011. However, after the hearing of 1 March 2011, the Respondent communicated to the Registry his agreement to file a reply to the application by 4 March 2011.

9. The facts in this case are common cause and the only legal issue before the Tribunal is whether the disciplinary measure imposed on the Applicant is proportionate to her misconduct. This is a legal issue for the Tribunal to determine. I have formed a tentative view, on the basis of the parties' written and oral submissions, that following receipt of the Respondent's reply this matter can be decided on the papers before the Tribunal.

10. Having considered the parties' submissions, and in view of the above, the Tribunal grants the Applicant's request for an expedited consideration of the matter. The matter will be considered on the papers before the Tribunal on an expedited

basis. Although, as the Tribunal stated in Order No. 64 (NY/2011), the urgency in the Applicant's case is self-created, it is clear that both parties are eager to have this matter determined by the Tribunal as soon as possible. Furthermore, considering the already voluminous amount of work created by the present application, it is in the interests of fair and expeditious disposal of the case, as well as in the interests of judicial economy, to deal with the matter promptly. This request, however, is granted on an exceptional basis.

IT IS ORDERED THAT—

11. The Respondent shall file his reply to the application filed on 11 February 2011 on or before **2:00 p.m. (New York time), Friday, 4 March 2011.**

12. The matter will thereafter be decided on its merits on the papers before the Tribunal on an expedited basis. Any reasoned requests for a hearing shall be filed and served on or before **2:00 p.m. (New York time), Monday, 7 March 2011.**

*(Signed)*

Judge Ebrahim-Carstens

Dated this 1<sup>st</sup> day of March 2011