



Before: Judge Ebrahim-Carstens (Duty Judge)

Registry: New York

Registrar: Hafida Lahiouel

NADEAU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CHANGE OF VENUE

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALS/OHRM, UN Secretariat
Elizabeth Gall, ALS/OHRM, UN Secretariat

Introduction

1. On 29 May 2015, the Applicant filed an application contesting the decision of the Under-Secretary-General for the Office of Internal Oversight Services (“USG/OIOS”), refusing to establish a fact-finding panel upon receipt of the Applicant’s complaint of harassment and abuse of authority pursuant to ST/SGB/2008/5. The application was transmitted to the Respondent by the Registry on 29 May 2015 requiring that he file his reply within 30 calendar days pursuant to art. 8.4 and art. 10 of the Rules of Procedure.

2. On Friday, 5 June 2015, the Applicant filed a motion for interim measures pending proceedings requesting, *inter alia*, that the USG/OIOS be “ordered to appear to give testimony before her [upcoming] separation from the Organization [in September 2015]”, which motion was rejected by the Tribunal (Duty Judge, Judge Greceanu) by Order No. 116 (NY/2015) of 12 June 2015.

3. On 24 June 2015, the Applicant filed a further motion for a disposition/precognition in *facie curiae* pending proceedings pursuant to art. 9 of the Statute of the United Nations Dispute Tribunal.

4. On 29 June 2015, the Respondent filed his reply to the application contending, *inter alia*, that the application is without merit, and that the Applicant effectively received the remedy requested, i.e., a permanent change in his reporting line. The Respondent also contends that the application is not receivable, the Applicant having failed to request a timely management evaluation of the contested decision. The Respondent avers that the Applicant was notified of the contested decision by email of 9 January 2014, whereas the Applicant only filed his request for management evaluation on 19 February 2015, almost one year later, and well beyond the requisite 60 days.

5. On 1 July 2015 by Order No. 129 (NY/2015), the Applicant was required by the Tribunal to file a submission by 24 July 2015, addressing the alleged satisfaction of his claim, and the receivability contentions raised by the Respondent, following which the Tribunal would give further directions regarding the conduct of this matter.

6. On 24 July 2015, the Applicant filed his response in French, having previously filed his pleadings and submissions in English.

7. By Order No. 178 (NY/2015) dated 5 August 2015, the Tribunal instructed the parties to attend a case management discussion (“CMD”) on 11 August 2015 to discuss in particular the motions filed by the Applicant, the issues of receivability and satisfaction of claim raised by the Respondent, and any other matters that may expedite a fair and just hearing and disposal of the case.

Consideration

8. At the CMD, the Tribunal enquired whether the Applicant intended to file any further submissions in French and whether he was requesting for the proceedings to be in the French language. The Applicant stated that French was his mother tongue with which he was more comfortable, and that as a lawyer he always preferred to make his submissions and arguments in French. The examination of witnesses would be in the language of the witness that is English or French. The Duty Judge explained that there were French-speaking Judges in Geneva and Nairobi and that, on a tentative inquiry, in light of the respective caseloads and for logistical reasons including the time difference, Geneva may be the preferred venue. The Duty Judge further noted that the New York courtroom and video connection facilities could be made available for the conduct of proceedings. The Respondent had no objections, and both parties agreed to have the case transferred to Geneva.

Change of venue

9. Article 6 (Filing of cases) of the Tribunal's Rules of Procedure provides:

1. An application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations.

2. The Dispute Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.

10. Pursuant to art. 19 of its Rules of Procedure, the Tribunal

may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

11. Pursuant to arts. 6.2 and 19 of the Rules of Procedures of the Dispute Tribunal, taking into account all relevant material considerations and the submissions of the parties, for a fair and expeditious disposal of the case,

IT IS ORDERED THAT:

12. By consent, and with leave of the Tribunal, Case No. UNDT/NY/2015/032 is hereby transferred from the Registry in New York to the Registry in Geneva, at which all further filings shall be made and all pending motions and matters dealt with, including consideration and determination of the case.

(Signed)

Judge Ebrahim-Carstens, Duty Judge

Dated this 13th day of August 2015