



**Before:** Judge Ebrahim-Carstens (Duty Judge)

**Registry:** New York

**Registrar:** Hafida Lahiouel

STEFANOVIC

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Kara Nottingham, HRLU/UNOG

## **Introduction**

1. On 8 June 2015, the Applicant, a Director with the Investigations Division (“ID”), Office of Internal Oversight Services (“OIOS”), filed an application contesting the decision of the United Nations Population Fund (“UNFPA”) investigators to not promptly refer his formal complaint against the Assistant Secretary-General (“ASG”) for the Office of Human Resources Management (“OHRM”); Ms. Baldini, a former staff member of ID/OIOS; and a legal officer in the Administrative Law Section (“ALS”), OHRM. The Applicant avers that not only was he denied the right to a properly authorized and executed investigation pursuant to his complaint, but that instead he was subjected to an unlawful investigation conducted by an external investigation body upon a complaint against him by the selfsame former staff member.

2. On 9 June 2015, the application was transmitted by the Registry to the Respondent pursuant to arts. 8.4 and 10 of the Dispute Tribunal’s Rules of Procedure, informing that the Respondent’s reply be filed within 30 days, by 5:00 p.m. on Thursday, 9 July 2015.

3. On 15 June 2015, the Applicant filed a motion for, *inter alia*, the immediate oral examination of the Under-Secretary-General (“USG”) of OIOS prior to her impending separation from service on 13 September 2015, and for the preservation and production of evidence. On 22 June 2015, the Applicant filed another motion to add new material to the application, and a further separate motion for the recusal of a Judge of the Dispute Tribunal in New York who had previously dealt with a case filed by Ms. Baldini.

4. By various orders, the Tribunal via the Duty Judge solicited the Respondent’s response to the motions. In the response submitted on 1 July 2015, the Respondent did not object to the admission of new material, but requested that the Tribunal reject the Applicant’s motion requesting the testimony of the USG/OIOS, and

the production of documents and preservation of evidence. The Respondent also filed a reply to the application on 9 July 2015 contending that the Applicant's claim was without merit, but also raising several points of receivability and requesting that these be dealt with as a preliminary matter.

5. By Order No. 179 (NY/2015) dated 5 August 2015, the Tribunal instructed the parties to attend a case management discussion ("CMD") on 12 August 2015 to discuss in particular the motions filed by the Applicant, the issues of receivability raised by the Respondent, and any other matters that may expedite a fair and just hearing and disposal of the case.

### **Consideration**

6. At the CMD, the Applicant stated that he withdraws his motions for (a) an expedited hearing for the USG/OIOS to provide testimony before her impending departure from the Organization, and (b) for the recusal of a Judge of the Dispute Tribunal in New York. However, the Applicant maintained his motion for preservation of the USG/OIOS's email database because it would be easier to preserve it now than having to recreate it later. Counsel for the Respondent contended that the Applicant's motion for preservation of the USG/OIOS's email database was overly broad—all relevant documents have already been presented but further materials would be provided upon request. The Applicant maintained that the Respondent should nevertheless preserve the data base in good faith. The Duty Judge emphasized that it would be for the Judge assigned the case to handle the Applicant's remaining motion.

7. The Applicant further stated that given the current changes in management of OIOS and OHRM, possibilities for reaching an amicable settlement of the present case have significantly improved and expressed his interest in entering into settlement negotiations. Counsel for the Respondent responded that she was willing to explore such option.

8. Informal resolution of conflicts is a crucial element of the system of administration of justice in order to avoid unnecessary litigation, and to inculcate harmony in the work place. The Duty Judge commends the Applicant and Counsel, and strongly encourages the parties to pursue informal resolution, either *inter partes* or through the Mediation Services of the Ombudsman's Office.

IT IS ORDERED THAT:

9. The Applicant's motions of 15 and 22 June 2015 for (a) an expedited hearing for the USG/OIOS to provide testimony before her impending departure from the Organization, and for (b) the recusal of a Judge of the Dispute Tribunal; are withdrawn and hereby discharged;

10. The motion for preservation and production of evidence is deferred;

11. The parties are to explore the possibilities for an amicable resolution of the present case and, by **5:00 p.m. on Friday, 4 September 2015**, inform the Tribunal about the progress of their negotiations;

12. If the parties do not agree to continue the settlement negotiations, by **5:00 p.m. on Friday, 11 September 2015**, the Applicant is to file and serve a response to the Respondent's submissions on receivability;

13. Should the parties require a formal referral for mediation by the Mediation Services of the Ombudsman's Office during which the proceedings herein will be suspended, they shall instantly advise the Tribunal so that a formal referral order be issued in accordance with art. 15 of the Rules of Procedure of the Dispute Tribunal.

*(Signed)*

Judge Ebrahim-Carstens

Dated this 14<sup>th</sup> day of August 2015