



**Before:** Judge Ebrahim-Carstens

**Registry:** New York

**Registrar:** Hafida Lahiouel

LADU

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Sètondji Roland Adjovi

**Counsel for Respondent:**  
Susan Maddox, ALS/OHRM, UN Secretariat  
Adrien Meubus, ALS/OHRM, UN Secretariat

## **Introduction**

1. On 20 July 2016, the Applicant, a former Security Assistant, at the G-3 level, with the United Nations Mission in South Sudan (“UNMISS”), filed an application contesting the decision to summarily dismiss him for misconduct. The application was registered with the Dispute Tribunal in Nairobi as Case No. UNDT/NBI/2016/052.

2. On 17 August, 2016, the Respondent filed his reply, requesting that the Tribunal dismiss the application.

3. By Order No. 430 (NBI/2016) dated 9 September 2016, the Tribunal informed the parties that following the resolution of the Plenary of the United Nations Dispute Tribunal Judges held in May 2016, the case had been selected for transfer to the Tribunal in New York as a matter of balancing overall case load. The parties were invited to express their views on the transfer of the case to New York.

4. On 15 September 2016, the Applicant filed his response to Order No. 430 (NBI/2016) informing the Tribunal that he did not, in principle, object to the transfer, but noted that the Applicant and his witnesses may not have the same physical access to the Tribunal in New York since they are located closer to Nairobi. The Applicant therefore requested that the Tribunal “take all necessary measures to facilitate the appearance of the Applicant and his witnesses each time they would need to”.

5. On 21 September 2016, by Order No. 439 (NBI/2016), the Tribunal ordered that the case be transferred to the Tribunal’s Registry in New York. Upon receipt in New York the case was registered under Case No. UNDT/NY/2016/044.

6. On 4 April 2017, via email to the New York Registry, one of the legal representatives for the Applicant, Mr. Adjovi who resides in Pennsylvania in the United States, requested a case status update on behalf of his client who currently resides in South Sudan. The Tribunal informed Mr. Adjovi by return email that cases

are generally considered by the Tribunal in chronological order based on the date of submission of the application, that is, priority is given to older cases.

7. On 11 April 2017, by Order No. 73 (NY/2017) the Tribunal instructed the parties' counsel to participate in a Case Management Discussion ("CMD") set down for 20 April 2017. The parties were instructed to "be prepared to discuss the logistical implications, if any, arising from the change of venue to New York". On the same day Counsel for the Respondent confirmed he would participate in the CMD and be present in the courtroom in New York.

8. On 13 April 2017, Counsel for the Applicant informed the Tribunal that he would participate in the CMD from Geneva using Skype. He also informed the Tribunal that Ms. N. Nyamai will not participate in the CMD as she is no longer the Applicant's co-counsel in this case.

9. On 20 April 2017, Counsel for both parties participated in a CMD and discussed the logistical aspects such as communication technology, the number and location of witnesses, the time difference between New York and Juba, the location of the Applicant and both counsel, and the impact of these and other matters on conducting a hearing. In facilitating the selection of the most appropriate venue, the parties agreed to confer and prepare a jointly signed submission setting forth their view as to whether a hearing was required, or whether the Tribunal could decide the matters in issue on the papers, supplemented where necessary by witness statements and agreed facts.

### **Consideration**

10. Having considered the logistical implications discussed at the CMD, the Tribunal finds it appropriate and in the interests of justice to invite the parties to make submissions on the above noted matters. Accordingly, pursuant to art. 19 of the Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

11. By **5:00 p.m. on Monday, 8 May 2017**, the parties shall file a jointly signed statement responding under separate headings to each of the issues listed below. Where there is disagreement over an issue, fact or statement, the submission shall identify the parties' respective positions:

- a. A consolidated list of agreed facts in chronological order;
- b. A consolidated list of facts in dispute if any, in chronological order;
- c. A list of agreed legal issues;
- d. A list of any further document(s), if any, each party requests production of, and the relevance of the document(s). If either party objects to the production of said document(s), he shall state the grounds of his objection;
- e. Whether they agree to have this case decided on the papers and, if not:
  - i. The reasons, set out succinctly and precisely, why a hearing is considered necessary;
  - ii. A proposed mutually agreeable date for the hearing on the merits;
  - iii. A list of the witnesses each party would call if a hearing is to be held, the relevance of the proposed testimony of those witnesses, and the geographical location of each witness;
  - iv. Whether they wish to file any additional statements or submissions;
  - v. Any other matters Counsel deem relevant.

12. Thereafter, upon consideration of the parties' submissions, the Tribunal may give further directions, including on the appropriate venue for the conduct of these proceedings.

*(Signed)*

Judge Ebrahim-Carstens

Dated this 20<sup>th</sup> day of April 2017