



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2017/043
Order No.: 220 (NBI/2019)
Date: 17 December 2019
Original: English

Before: Judge Rachel Sophie Sikwese

Registry: Nairobi

Registrar: Abena Kwakye-Berko

MICALETTI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON FURTHER SUBMISSIONS

Counsel for the Applicant:

Victor Rodriguez

Counsel for the Respondent:

Jonathan Croft, AAS/ALD/OHR

Susan Maddox, AAS/ALD/OHR

Introduction

1. On 7 May 2017, the Applicant, a former staff member working with the United Nations-African Union Hybrid Operation in Darfur (UNAMID) filed an application before the Dispute Tribunal contesting the following decisions:

- a. The decision to place an adverse note in his Official Status File (OSF).
- b. The decision to deny him his right to defend himself, to due process and to work, by withholding the disciplinary process that the Secretary-General had initiated.
- c. The decisions not to properly consider his submissions that refute the allegations made against him, not to grant his requests for evidence and not to observe his due process rights, which he requested in his letter to the Assistant Secretary-General, Office of Human Resources Management (ASG/OHRM) dated 25 January 2017.
- d. The decision not to disclose and assess the records of the two audio interviews of the witness that the Office of Internal Oversight Services (OIOS) claimed had corroborated one of the two OIOS's final findings mentioned in paragraph 146 of an OIOS investigation report of 18 November 2016.

2. The Respondent filed a reply on 19 May 2017.

Deliberation

3. Pursuant to art 9.1 of the UNDT Statute, the UNDT may “order production of documents or such other evidence as it deems necessary”. Further, according to art. 18.2 of the UNDT Rules of Procedure, the UNDT “may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be

necessary for a fair and expeditious disposal of the proceedings”. Accordingly, the Tribunal requests the parties to elaborate on their positions with regard to ST/AI/292.

ORDERS

4. The parties shall file further submissions and address legal arguments pertinent to the applicability of ST/AI/292 where a note is placed in personnel file after the staff member has separated from the service of the Organization.

5. The parties shall file the submissions by **24 December 2019**.

(Signed)

Judge Rachel Sophie Sikwese

Dated this 17th day of December 2019

Entered in the Register on this 17th day of December 2019

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi