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# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2013-535

**Bastet**  
**(Applicant)**

**v.**

**Secretary-General of the United Nations**  
**(Respondent)**

**ORDER No. 172 (2014)**

1. On 3 September 2012, Mr. Bruno Bastet filed an application with the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York, contesting the Secretary-General's decision to dismiss him from service for claiming and receiving a rental subsidy from the Organization, to which he was allegedly not entitled. Said application remains pending before the Dispute Tribunal.

*Procedural History*

2. By Order No. 96 (NY/2013) of 12 April 2013, Mr. Bastet's case was transferred to the Dispute Tribunal in Geneva. And by Order No. 58 (GVA/2013) of 16 May 2013, the UNDT in Geneva rejected Mr. Bastet's motions for the production of documents from the Secretary-General, a stay of proceedings, and travel costs for him and his counsel. The UNDT also ruled that, at that time, no witnesses would be convoked to the oral hearing and directed that Mr. Bastet produce certain documentary evidence.

3. Mr. Bastet filed interlocutory appeals of both orders in the United Nations Appeals Tribunal (Appeals Tribunal) on 31 May 2013 and 6 June 2013, respectively.

4. By Order No. 80 (GVA/2013) of 14 June 2013, the UNDT in Geneva, *inter alia*, denied Mr. Bastet's request for a stay of the proceedings pending the Appeals Tribunal's decisions on his interlocutory appeals.

5. On 4 September 2013, the UNDT issued Order No. 154 (GVA/2013), convoking the parties to a hearing which was scheduled for 16 October 2013. The hearing was subsequently postponed due to the unavailability of Mr. Bastet's counsel.

6. On 20 September 2013, Mr. Bastet filed his first "Motion for Interim Relief", requesting that the Appeals Tribunal suspend the proceedings before the UNDT pending his appeals against Orders No. 96 (NY/2013) and No. 58 (GVA/2013), and the Secretary-General filed his Observations on the Motion on 25 October 2013.

7. By Order No. 162 dated 8 November 2013, this Tribunal dismissed Mr. Bastet's motion for interim relief, concluding that the interim relief he was seeking failed to meet the requirements of Article 9(4) of the Appeals Tribunal Statute (Statute).

#### *Pending Motion*

8. By Order No. 160 (GVA/2013) dated 22 October 2013, the UNDT in Geneva ordered the Secretary-General as Respondent to provide it with certain documents pertaining to the ultimate decision to dismiss Mr. Bastet from service.

9. On 24 October 2013, Mr. Bastet submitted an interlocutory appeal against Order No. 160. On the same day, he filed a motion for interim relief against Order No. 160 under Articles 9(4) and 7(5) of the Statute and Articles 8(6) and 18*bis* of the Appeals Tribunal Rules of Procedure (Rules), requesting that this Tribunal order a stay of the UNDT proceedings "until a UNAT judgment is issued on interlocutory Appeal cases No 471, 493 and in the interlocutory Appeal filed ... against Order No 160 (GVA/2013)".

10. Mr. Bastet makes many claims in his motion, including that it is "tantamount to a contempt towards the Appellate level, as well as an excess of jurisdiction" for the UNDT to proceed with his case in Geneva while his two previously filed interlocutory appeals are pending. He also claims that any further UNDT proceedings without disclosure of key evidence will "cause irreparable harm and damages to [his] health".

11. On 15 November 2013, the Secretary-General filed his comments on the motion, arguing that the motion is without merit and should be denied for the same reasons that this Tribunal denied Mr. Bastet's previous motion for interim relief in Order No. 162 (2013).

12. This Tribunal ruled in Order No. 162 that Article 9(4) of the Statute did not provide a basis to grant Mr. Bastet's motion for interim relief since he was not seeking interim relief which was consistent with the Order of the Dispute Tribunal. Rather, he was seeking the exact opposite, namely a stay of the proceedings, which the UNDT had denied to him. The same reasoning for the denial of Mr. Bastet's first motion for interim relief applies to the pending motion; Article 9(4) of the Statute is not applicable.

13. Similarly, Mr. Bastet's motion for interim relief does not come within the requirements of Article 7(5) of the Statute and Article 8(6) of the Rules. Article 7(5) of the Statute provides that "[t]he filing of appeals shall have the effect of suspending the execution of the judgement contested." Article 8(6) of the Rules contains almost identical language. It is clear that these provisions apply only to appeals against judgments; they "do[] not apply to interlocutory appeals".<sup>1</sup>

14. For the foregoing reasons, Mr. Bastet's request for interim relief IS DENIED.

Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of January 2014 in  
Los Angeles, United States.

*(Signed)*  
Judge Rosalyn Chapman,  
Duty Judge

Entered in the Register on this 29<sup>th</sup> day of  
January 2014 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar

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<sup>1</sup> *Villamorán v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-160, para. 48..