



Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

ESPINOSA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

N/A

Facts

1. On 12 May 2014, the Applicant filed a submission with the Geneva Registry of the Tribunal, seeking to contest decisions, not clearly identified in his submission, taken by an Official, equally undetermined, of the International Maritime Organization (“IMO”).
2. The submission was registered under Case No. UNDT/GVA/2014/022.
3. On 13 May 2014, the Geneva Registry of the Tribunal acknowledged receipt of the application and informed the Applicant that “decisions taken by the [head of] ... the [IMO]” fall within the jurisdiction of the United Nations Appeals Tribunal (“UNAT”), and not of the United Nations Dispute Tribunal (“UNDT”). It further indicated that the Applicant “may therefore consider to withdraw [his] application from the UNDT and resubmit it to the UNAT”.
4. On 15 May 2014, the Applicant sent an email to the Geneva Registry, stressing that his claim was intended against various Officials of the IMO, and that in view of the advice provided by the Geneva Registry, he had submitted his claims against the Secretary-General of the IMO to the UNAT. He asked, however, whether he could pursue his claim against two other IMO Officials before the Dispute Tribunal.

Considerations

5. The Tribunal notes that the Applicant, instead of withdrawing the application, extends his submissions to other decisions emanating from Officials of the IMO.
6. As a first step, the Tribunal has to determine if it is competent to examine an application directed against the IMO. Since the Tribunal’s competence is a matter of law, which may be adjudicated even without serving the application to the Respondent for reply and even if not raised by the parties (see *Gehr* 2013-UNAT-313, *Boutroue* UNDT/2014/048), it deems it appropriate to decide on the present

application by way of summary judgment, as provided for in art. 9 of the Tribunal's Rules of Procedure:

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate.

7. The scope of the Tribunal's jurisdiction is clearly determined and limited by art. 2.1(a) of its Statute, which provides:

2.1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment.

8. The Tribunal considers that the Applicant does not contest an administrative decision taken by the Secretary-General as the Chief Administrative Officer of the United Nations. Further, the Tribunal notes that the IMO is not one of the organizations or entities with which a special agreement has been concluded, under the terms of art. 2.5 of its Statute, to establish the Tribunal's jurisdiction. It is therefore not competent to examine the present application.

Conclusion

9. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

(Signed)

Judge Thomas Laker

Dated this 16th day of May 2014

Entered in the Register on this 16th day of May 2014

(Signed)

René M. Vargas M., Registrar, Geneva