

These Judicial Directions can be updated if the Dispute Tribunal deems it necessary after a few months.

New York, 30 July 2020

Judicial Directions

Issued pursuant to Article 21 of the Rules of Procedure of the UNDT

Duties of Staff members and Legal Officers in the Registries

Preamble

The United Nations Dispute Tribunal is independent, for all judicial matters, from the General Assembly of the United Nations and the Executive of the United Nations, including the Secretariat of the United Nations. The Judges act autonomously.

All members of registry staff of the United Nations Dispute Tribunal perform their functions under a duty of loyal cooperation towards the Judges.

1. Scope and binding nature of these Judicial Directions

These Judicial Directions apply to the members of registry staff and take precedence over all instructions or directions in respect of the matters herein covered, which may be given to members of registry staff by any officials or staff members of the United Nations, including the Office of Administration of Justice (OAJ). These Judicial Directions shall have applicability to all seats of the Tribunal.

2. Definitions

For the purpose of these Directions

2.1. "Assigned Judge" is a reference to the Judge assigned to a case.

2.2. "Presiding Judge" is a reference to the Judge presiding over a case at any given time.

2.3. "Full-time Judges" is a reference to the Judges elected for a term of seven years by the General Assembly.

2.4. "Half-time Judges" is a reference to the half-time Judges elected for a term of seven years by the General Assembly, being deployed for 6 months or up to 6 months in any year.

2.5 "Duty Judge" is a judge handling preliminary matters arising in cases pending assignment at the seat of the Tribunal where he or she is serving.

The term duty judge also refers to a judge who handles emergency matters arising in another seat of the Tribunal when no judge is available at that location. The duty judge will cover urgent matters arising at another seat of the Tribunal in the absence of Judges in this other seat, according to the following protocol, unless other individual arrangements are made between the Judges. :

- The New York Judge replaces the Geneva Judge
- The Geneva Judge replaces the Nairobi Judge and;
- The Nairobi Judge replaces the New York Judge.

2.6. “Member of registry staff” includes the Principal Registrar, Registrars in charge of the registries of the United Nations Dispute Tribunal, legal officers, legal assistants, and any other staff of the United Nations appointed, seconded or assigned to work in a Registry of the United Nations Dispute Tribunal.

2.7. “Registrar” is the person appointed under Article 6.2 of the United Nations Dispute Tribunal’s Statute at a particular seat of the Tribunal.

2.8. “Tribunal” is a reference to the United Nations Dispute Tribunal.

2.9. “Written” or “in writing” shall include electronic communication. The singular shall include the plural and vice versa.

3. Confidentiality

3.1. Members of registry staff are obliged to comply with professional confidentiality whilst engaged as such and after such engagement. They shall not discuss or disclose any information in the case files to any person except other members of registry staff. Deliberations in respect of any case or methodology adopted are always entirely confidential and shall not be disclosed under any circumstances, noting that the Registry is the custodian of the records of the Tribunal. Access to and confidentiality of draft judgments, orders or any material which is sub judice shall be respected at all times in compliance with and at the direction of the Presiding Judge.

4. Work of the Registry staff on judicial matters

4.1. Members of registry staff perform their substantive duties under the supervision and functional dependency of a Judge and pursuant to her/his instructions regarding all issues concerning legal consideration in respect of applications and motions (see Article 21 the UNDT Rules of Procedure).

4.2. The Registry’s staff members’ priority is to assist the judges. This support shall be provided within the time limits set up by the judges. Other administrative activities may be performed only after completion of the tasks requested by the judges.

5. Assignment of an application

5.1 Applications on the merits

5.1.1. To a full-time Judge

5.1.1.1. A Registrar shall assign a reasonable number of applications (between 10 and 15 at a given time) to the full-time Judge, normally in the chronological order in which

the cases are filed, unless ensuring an efficient docket management requires the occasional assignment of more recent cases. The judge's docket will always be kept at approximately the same number of cases.

5.1.1.2. Multiple applications raising similar factual and/or legal issues shall be normally assigned to the same Judge. Applications by the same applicant concerning the same set of facts which are decisive for the merits of the case shall be normally assigned to the same Judge.

5.1.2. To a half-time Judge

Registrars will assign a reasonable number of applications to the half-time Judges deployed at their duty station, considering the length of the period of deployment preferably in the chronological order in which the cases were filed unless, ensuring an efficient docket management requires the occasional assignment of more recent cases.

Cases assigned will be expected to be completed during the period of deployment.

5.2. Suspension of action applications and motions for interim measures

5.2.1. Unless otherwise provided, the Registrar shall assign an application for suspension of action to a Judge immediately after being filed. No suspension of action or other urgent application or motion for interim measures shall be assigned to a Judge who is on leave. If necessary for compliance with the time limits, a Registrar will assign the case to the Duty Judge following the agreed upon protocol

5.2.2. If a motion for an interim measure is filed in a case and the assigned Judge is unavailable to address the motion in time, the half-time Judge deployed at the same seat of the Tribunal may determine the motion. If no judge is available at the seat of the Tribunal, a Registrar may assign the case to the Duty Judge following the established protocol.

5.3. Assignment of cases to members of registry staff

At the same time as a case is assigned to a Judge, the Registrar shall assign a legal officer and a legal assistant to assist the Judge in respect of such application or motion. When necessary, appropriate arrangements shall be made, by the Registrar, for a case file to be transferred to another legal officer or legal assistant.

5.4. Assignment of dedicated legal officers to Judges

5.4.1. Where a Judge prefers to be assisted in her/his judicial work by one legal officer at a time, the Registrar shall assign one principal legal officer to such Judge for periods not exceeding six months in order to maintain the principle of rotation of legal officers.

5.5: Urgent actions on cases pending assignment

Pending their assignment to a judge, urgent actions required by the Statute and the Rules of Procedure shall be undertaken by any of the judges assigned at the seat of the Tribunal where the case is registered.

6. No application to be disposed of administratively

6.1. Judges have the sole responsibility for making decisions in respect of the disposal of all applications and motions. No filing, partial or attempted, is to be rejected without the written instruction from a Judge. No application is to be administratively rejected as a consequence of it not being filed through the electronic filing system (CCMS) of the Tribunal.

6.2. If the Registrar notes that a filing is not compliant with the relevant provisions including but not limited to, the use of the wrong form, a lack of supporting documentation, or is not filed under CCMS, the Registrar shall nevertheless register the filing, bringing it immediately to the attention of a Judge of the particulars of the apparent noncompliance with a view to the non-compliance being considered immediately. The judge will provide guidance to the registrar in writing.

7. Access to filing systems and database of the Tribunal

7.1. No person, other than a Judge or member of the registry staff, shall have any access to the past or present case files (electronic and/or paper), the database of the Tribunal or to any place where physical files of the Tribunal are kept.

7.2. No member of the staff of OAJ, not being members of registry staff and information technology staff, shall have access to the email or CCMS filing notification system of the Registry, which shall be under the custody and control of the Registrar at each of the seats of the Tribunal. Judges shall have access to such notification systems.

7.3. Except for the registry staff, the OAJ shall be provided with statistical information in respect of cases, the number thereof and such other information as may be agreed upon by the Judges, including access to CCMS solely for retrieving statistical information.

7.4. If access to these filing systems and/or database is required for any other reason, any person seeking this access shall first submit a written request, with full reasons, to the Registrar. The Registrar shall immediately bring this matter to the attention of a Judge at the seat of the Tribunal, who shall make a decision in respect of such request. The decision of the Judge shall be recorded in writing. Any person to whom access is granted shall, before gaining access, provide to the Registrar, a written undertaking not to disclose any material within the systems to any person whomsoever without the express written permission of a Judge.

7.5. Information requests concerning pending cases shall be referred by the Registrar to the Judge to whom the case has been assigned. In all other cases, including closed cases, the request shall be referred by the Registrar to the President of the Tribunal who will take such action as may be necessary, having regard to the nature and

purpose of the request and to any other matter that appears to the President to be relevant.

8. Orders and judgments

8.1. The judge shall provide specific instructions to the legal officer in relation to legal research, editing and drafting, the latter including any factual and legal analysis in the required format.

8.2. In order to ensure that all amendments to documents are known and properly recorded, any suggested alterations shall be made in track changes and provided by email to the Judge by the assigned legal officer. All of these documents are to be watermarked “draft” or “final draft”

8.3. No modification or amendment is to be made to the content of a final draft of a judgment or order by any member of the registry following the final approval by the Judge.

8.4. Once approved, judgment and orders shall be issued within the deadline set by the judge.

9. Electronic Signature of Judge

The application of the electronic signature of a Judge is to be made only on the express written instruction of the Judge.

10. Publication of Judgments and Orders

10.1. All judgments and orders disposing of a case must be published. Orders which make a significant legal pronouncement may be published upon consultation with and upon the instruction of the Judge who made it. Other orders shall only be published on the instructions of the issuing judge.

10.2. Judgments and orders shall be provided only to the parties or their legal representatives.

11. Correspondence and communications with parties

11.1. Any correspondence requiring a judicial response must be made in principle by way of motion and responded to by way of an order. When parties email the registries for judicial directions or guidance, such correspondence is to be brought to the attention of the assigned Judge, or, in the absence of the assigned Judge, another Judge at the seat of the Tribunal in receipt of the correspondence.

12. Correspondence with the United Nations, including the Office of the Administration of Justice

12.1. Without the express written consent of the assigned Judge first obtained, there is to be no communication-written, oral or otherwise-by any member of registry staff in

respect of any matter of fact or thing concerning or touching upon any present or past application before the Tribunal, including, but not limited to:

- i. details of the application,
- ii. the identity of the legal officers and/or assistants involved in respect of the matter,
- iii. the instructions given by the assigned Judge to the case to the legal officer(s) and /or legal assistant(s) assigned to the case,
- iv. names of prospective and/or past witnesses in a case, and/or
- v. any details of any matter heard in camera.

12.2. In case the assigned Judge to a past case is no longer with UNDT, the written express consent is to be given by the UNDT President.

12.3. To preserve the confidentiality of the files and information of the Tribunal any request made to any member of the registry staff by any person who is not a Judge or a current member of the registry staff, for any information concerning or touching upon any matter which is or had been before the Tribunal, and is not in the public domain or is merely for statistical purposes, as may be authorized, shall be refused with immediate written advice of such request being provided to a Judge and the Registrar located at the registry concerned. All appropriate action is to be taken to protect the staff member concerned, where such refusal could be seen as non-cooperation with a superior within the United Nations system.

Adopted during the plenary session of the judges of the UNDT on May 13, 2020