



Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

KIGOZI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON FURTHER SUBMISSIONS

Counsel for the Applicant:

Daniel Trup, OSLA

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR

Rosangela Adamo, AAS/ALD/OHR

Introduction

1. At the time of the contested decision, the Applicant was a Transport Assistant at the G-4/10 level working with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), based in Entebbe, Uganda.
2. On 20 April 2018, he filed an application with the United Nations Dispute Tribunal (UNDT) challenging the decision to abolish his post and terminate his fixed-term appointment.
3. The Respondent filed a reply to the application on 24 May 2018.
4. In light of the submissions by the parties, the Tribunal held a case management discussion (CMD) on 13 August 2019.

Deliberation

5. 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”. Following the CMD where the Respondent excluded undertaking informal resolution, the Tribunal requests the parties to elaborate on their positions on the merits.

ORDERS

6. The Applicant shall file further submissions and address:
 - a. legal arguments pertinent to the contractual obligations of the United Nations toward the Applicant in relation to the comparative review process;

- b. parent organization argument, whether the Applicant’s employer for the purpose of securing employment should be considered UNAMID or the Secretariat;
 - c. applicability and scope of the Respondent’s “duty of care” in relation to the present case, in light of the law, the practice of the Organization and the jurisprudence; and
 - d. the Applicant’s financial and employment status;
 - e. any evidence on the above, documentary or testimonial.
7. The Respondent shall file submissions addressing the following:
- a. elaborate on the authority, authorship and issuing entity of the terms of reference of the comparative review panel;
 - b. explain onerousness, if any, for the Organization in having the Applicant externally recruited for UNAMID; and
 - c. applicability and scope of the Respondent’s “duty of care” in relation to the present case, in light of the law, the practice of the Organization and the jurisprudence;
 - d. reply to the Applicant’s submissions as stated in paragraph 6 above;
 - e. any evidence on the disputed facts, documentary or testimonial.
8. The Applicant shall file the submissions by **11 September 2019** and the Respondent shall file his by **30 September 2019**.

(Signed)

Judge Agnieszka Klonowiecka-Milart
Dated this 14th day of August 2019

Entered in the Register on this 14th day of August 2019

(Signed)
Abena Kwakye-Berko, Registrar, Nairobi