



**Before:** Judge Francis Belle  
**Registry:** Nairobi  
**Registrar:** Abena Kwakye-Berko

ZAHOOR

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**CASE MANAGEMENT ORDER**

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**Counsel for the Applicant:**

Omar Josef Shehabi, OSLA

**Counsel for the Respondent:**

Kevin Browning, UNICEF

## **Introduction**

1. Prior to being summarily dismissed, the Applicant served the United Nations Children’s Fund (“UNICEF”) as the Chief of the Field Office in Kadugli, Sudan. He held a fixed-term appointment at the P4 level.

## **Procedural History**

2. The Applicant was separated from service of the United Nations for misconduct in violation of staff rules 1.2(a) and (b) on 22 March 2019. The disciplinary process was conducted in accordance with paragraphs 4.3 – 5.1 of CF/EXD/2012-005 which governs UNICEF’s Disciplinary Process and Measures. UNICEF also applied paragraph 22 of DHR/PROCEDURE/2018/003 on Personnel Files.

3. The Applicant filed his application to challenge that decision on 12 June 2019 at the United Nations Dispute Tribunal sitting in Nairobi.

4. The Respondent filed his reply to the application on 11 July 2019.

5. This case was assigned to new counsel by the Office of Staff Legal Assistance in August 2020.

6. The parties attended a case management discussion (“CMD”) before the Tribunal on 18 August 2020.

## **The Discussion**

7. The Tribunal began the discussion by asking the parties if they are amenable to this matter being resolved *inter partes*. The Applicant indicated a willingness to engage in settlement discussion. However, Counsel for the Respondent informed the Tribunal that the Respondent does not believe that this matter is suitable for alternative dispute resolution.

8. There was some discussion as to whether this matter can be determined on the papers or if an oral hearing will be required. Counsel for the Applicant was of the view that the flawed investigation process is sufficient to have the sanction vacated, and that this matter can be demonstrated and adjudicated on the basis of the parties' written submissions. The Respondent is of the firm view than an oral hearing will be necessary, and to this end indicated that he intends to call the complainant and one other witness to testify.

9. On the issue of disclosure, the Applicant informed the Tribunal that he intends to file a motion for disclosure of the recordings of witness interviews. The Respondent asked for the opportunity to respond to this motion.

10. The Applicant also intends to make submissions on the "no difference principle" as espoused in the most recent jurisprudence of the United Nations Appeals Tribunal.

11. The Tribunal anticipates scheduling this matter for oral hearing in October 2020, when the undersigned Judge next deploys.

### **Orders**

12. The Tribunal makes the following Orders:

- a. The Applicant will file his further submissions and motion for disclosure by **4 September 2020**;
- b. The Respondent will file his response to the Applicant's submissions and motion by **16 September 2020**; and
- c. The parties should prepare to file a joint submission of the list of facts and issues to be adjudicated in this matter, and the list of witnesses they intend to call, by **6 October 2020**.

*(Signed)*

Judge Francis Belle

Dated this 21<sup>st</sup> day of August 2020

Entered in the Register on this 21<sup>st</sup> day of August 2020

*(Signed)*

Eric Muli, Legal Officer, for,  
Abena Kwakye-Berko, Registrar, Nairobi