



Before: Duty Judge

Registry: Nairobi

Registrar: Wanda L. Carter

MARUSCHAK

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Jacob van de Velden, DAS/ALD/OHR, UN Secretariat

Sergei Gorbylev, DAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former Field Security Officer with the United Nations Interim Force in Lebanon (“UNIFIL”). He filed an application before the United Nations Dispute Tribunal (“UNDT”) dated 24 June 2019, in which he challenged his separation from service for misconduct, with compensation *in lieu* of notice and without termination indemnity following an investigation in which UNIFIL found that he had driven his personal vehicle after consuming alcohol and causing his vehicle to collide with an Italian contingents’ United Nations Armoured Vehicle (“the contested decision”).

Procedural Background

2. On 20 December 2023, UNDT issued Judgment No. UNDT/2023/140 deciding:
- a. The application was partially successful in so far as the facts on which the contested decision was based were not established under the applicable standard;
 - b. Through his conduct in the proceedings, the Applicant undermined his integrity particularly as an international civil servant and in his functional capacity as Chief in the field of Security. He had destroyed the mutual trust and confidence necessary in an employment relationship. For these reasons, rescission of the contested decision was declined; and
 - c. The Tribunal awarded USD500 costs against the Applicant for manifest abuse of proceedings.
3. The Applicant appealed the Judgment to the United Nations Appeals Tribunal (“UNAT”). On 2 May 2025, UNAT issued Judgment No. 2025-UNAT-1529, granting the Applicant’s appeal in part, and reversing UNDT Judgment No. UNDT/2023/140.

4. In its judgment, UNAT was satisfied that the UNDT had correctly found that Mr. Maruschak manifestly abused the judicial process.

5. However, UNAT found that the UNDT had erred in determining the quantum of award for costs for abuse of process, finding the award of USD500 sum “minimal”. According to UNAT, “this minimal sum was due to UNDT’s confusion of the remedy for an unlawful administrative decision and the remedy for abuse of its judicial process” in reliance on Article 10(6) of the UNDT Statute. UNAT held that the UNDT “purportedly and improperly sanctioned Mr. Maruschak’s abuse of process by both declining to rescind the contested decision and awarding USD500 in costs against him” and therefore concluding that the quantum of costs for abuse of judicial process did not fully reflect the UNDT’s appreciation of the gravity of Mr. Maruschak’s behaviour.

6. The UNAT accordingly remanded the matter to UNDT, to correct “an error in the proper methodology to sanction an abuse of process” and instructing that UNDT determine the following:

- a. The appropriate remedy for rescission of the contested decision; and
- b. The appropriate quantum for costs for abuse of process.

Maruschak, 2025-UNAT-1529, para 112.

7. In its judgment, the UNAT opined that:

[a]fter the UNDT makes its determination on the Article 10(5) remedy for the unlawful administrative decision and the appropriate quantum for costs pursuant to Article 10(6), the UNDT will then have exercised its full jurisdiction and have finalized its judgment. The UNDT may wish to seek additional submissions from the parties on these points.

Id. at para. 104.

UNDT Process

8. The remanded case was received by UNDT-Nairobi and registered in the system at case number UNDT/NBI/2019/086/R1. The matter was assigned, and the parties were duly served on 12 May 2025.

9. The assigned judge determined that a case management discussion (CMD) was necessary to “facilitate fair, efficient and expeditious management and disposal of this case,” and on 26 June, requested the parties to provide the Registry with their dates/time of availability for a CMD to be held on the week of 18 August 2025.

10. On 12 May, the Respondent filed an application before the UNAT for interpretation of the judgment 2025-UNAT-1529; and on 15 May 2025, the Respondent filed a “Motion to stay the UNDT proceedings” pending determination of the UNAT application.

11. Via emails dated 2 July 2025, both the Applicant and the Respondent advised of their availability for the week of 18 August.

Conclusion

12. In view of the foregoing, it is hereby ORDERED that

- a. A case management discussion will be held in this matter on **Monday, 18 August 2025, at 2:30 pm** (Nairobi time) via Microsoft Teams.
- b. The purpose of the CMD will be to:
 - i. discuss the issues raised on remand of the case;
 - ii. identify the factual and legal issues to be determined;
 - iii. consider what further information, if any, is required;
 - iv. identify any documents to be disclosed;

- v. discuss any other matter relevant to these proceedings, including Respondent's motion to stay the proceedings in this matter.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 23rd day of July 2025

Entered in the Register on this 23rd day of July 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi