



**Before:** Judge Sean Wallace

**Registry:** Nairobi

**Registrar:** Wanda L. Carter

DJOMO METANHI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON APPLICANT'S MOTION TO  
STRIKE OUT R/3 AND FOR A  
PRELIMINARY RULING ON  
ADMISSIBILITY OF SURREPTITIOUS  
RECORDING**

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**Counsel for Applicant:**

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**Counsel for Respondent:**

Cynthia Kimaro, DAS/ALD/OHR, UN Secretariat  
Albert Angeles, DAS/ALD/OHR, UN Secretariat

## **Introduction and Procedural History**

1. On 19 June 2025, the Applicant, the D-2 Director of the United Nations Regional Service Centre Entebbe (RSCE), filed this application contesting a 21 March 2025 decision by the administration to impose a disciplinary sanction placing a written censure in his official status file following an investigation into allegations of harassment.

### *Parties' Submissions*

2. In his application, the Applicant avers, *inter alia*, that the contested decision was based on an “inadmissible surreptitious recording” which was gravely prejudicial and lacking probative value.

3. The Applicant requested that the Tribunal determine the admissibility of the recording as a preliminary matter “for reasons of judicial economy”. He also filed a Motion for leave to exceed the page limit as part of his application.

4. In his Reply, the Respondent averred that the audio-recording was admissible. The Respondent also attached as Annex R/3 a sanction letter issued against the Applicant in 2021, in which the Applicant was reminded of his obligation to “treat all people in the workplace courteously and with dignity and respect” and required to complete relevant training.

5. On 28 July 2025, the Applicant filed “Motions to Strike Out (Annex) R/3 and for a Preliminary Ruling on Admissibility of Surreptitious Recording”. In his motion, the Applicant argues that the documents included in Respondent’s Annex R/3 were not part of the disciplinary process that formed the basis for the contested decision in the case at hand. The Applicant further reiterated his request that the Tribunal decide on the admissibility of the surreptitious audio recording as a preliminary matter.

6. In response to the Applicant’s Motion to Strike Out (Annex) R/3, on 15 August, the Respondent disputed the factual premise for Applicant’s motion

pointing out that R/3 was shared with the Applicant during the disciplinary process and was referred to in the allegations of misconduct to which the Applicant responded. The next day, the Applicant withdrew his request to strike out Annex R/3.

### **Consideration**

7. In asking the Tribunal to rule upon the admissibility of the audio recording before deciding the merits of the case, the Applicant is seeking an interlocutory decision from the Tribunal.

8. This Tribunal has previously dealt with the same issue in *Okwakol* Order No. 082 (NBI/2022) and the subsequent judgement UNDT/2022/082. In Order No. 082, Judge Tibulya held that “[t]he objection to the reception of the audio and transcript is premature and would be best raised during the main hearing and in closing submissions and addressed by the Tribunal as part of the final judgment preparation process”. *Id.*, para. 6. She went on to state that

It is the role of the Dispute Tribunal to determine the admissibility of evidence and the weight to be attached to it. This should be done in the final judgment preparation process rather than being done in the piecemeal manner proposed by the Applicant. The suggestion that there should be a hearing to determine the admissibility of specified pieces of evidence if granted would lead to an unhealthy situation where the Tribunal would conduct mini hearings and draft a multiplicity of micro judgments before the main hearing and final judgment, which would be detrimental to judicial economy. *Id.* para 7.

9. On review, the Appeals Tribunal very succinctly said “[w]e agree with and uphold the UNDT’s conclusion and reasoning.” *Okwakol*, 2023-UNAT-1354, para. 92.

10. This Tribunal also agrees with the reasoning and conclusion of Judge Tibulya. Applicant's motion for a preliminary hearing on the admissibility of the recording is premature. The admissibility of the recording (and all other evidence) will be determined in the judgment preparation process and not in a piecemeal fashion. See also, *Loto* UNDT/NBI/2022/022 (Order No. 081/NBI/2022).

### **Conclusion**

11. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant's withdrawal of his motion in respect of Respondent's annex R/3 is acknowledged, and Annex R/3 will form part of the record;
- b. The Applicant's motion for a preliminary determination on the admissibility of the audio recording is denied; such admissibility will be determined in the course of the proceedings;
- c. In view of the submissions by the parties, the Tribunal has decided to hold a case management discussion ("CMD"). The purpose of the CMD is to:
  - i. discuss and identify the claims and issues in the case;
  - ii. discuss any possibility for an amicable resolution of the case; and
  - iii. address any other matter relating to the consideration and determination of this application;
  - iv. determine the need for a hearing in this matter, and identify the necessary witnesses for such hearing; and

v. determine the date for the CMD.

d. By **Tuesday, 2 September 2025**, the parties shall provide dates on which they are available for a CMD to be held in the week of 8-12 September or 15-19 September 2025.

*(Signed)*

Judge Sean Wallace

Dated this 26<sup>th</sup> day of August 2025

Entered in the Register on this 26<sup>th</sup> day of August 2025

*(Signed)*

Wanda L. Carter, Registrar, Nairobi