



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2025/091
Order No.:	187 (NBI/2025)
Date:	13 October 2025
Original:	English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

MARONG

ORDER

Introduction and Background

1. On 19 August 2025, the United Nations Dispute Tribunal (UNDT) delivered Judgment No. UNDT/2025/054 in the matter of *Kebede v. Secretary-General of the United Nations* (UNDT/NBI/2025/049).

2. In that judgment, the Tribunal recounted that the Respondent represented, in his reply, that “[t]he selection panel was composed of impartial members who had no prior interactions or conflicts of interest with Mr. Kebede.” However, the evidence ultimately showed that this statement was false given that two of the panel members had extensive interactions and conflicts with Mr. Kebede. *Id.* para.40

3. The Tribunal further noted that “This false statement was only uncovered when the Tribunal directed the Respondent to file the interview panel report. Initially, the Respondent attempted to hide the truth by redacting the names of the panel members from the report, thereby compounding the misconduct. This required the Tribunal to issue a second order specifically directing the Respondent to identify the panel members by name.” *Id.* para. 41.

4. As a result, the Tribunal determined that counsel for the Respondent had violated the Code of Conduct for legal representatives by making this false statement. It then directed the attorney, Alhagi Marong, to show cause why he should not be barred from future appearances before the United Nations Dispute Tribunal.

5. Mr. Marong filed a timely *ex parte* submission (registered at UNDT/NBI/2025/091) in which he does not dispute that the statement was false. However, he presents various reasons why he should not be barred from future Dispute Tribunal proceedings.

Consideration

The Tribunal’s authority to bar a person from future appearances as a legal representative.

6. Mr. Marong first argues that the Tribunal has no legal authority to bar a person from future appearances as a legal representative before the Dispute Tribunal.

According to him, neither the Dispute Tribunal Statute nor its Rules of Procedure grant that power.

7. However, on 23 December 2016, the General Assembly adopted a Code of Conduct for legal representatives and litigants. A/RES/71/266. The Code expressly establishes that legal representatives “shall maintain the highest standards of integrity and shall at all times act honestly, candidly, fairly, courteously, in good faith and without regard to external pressures or extraneous considerations.” *Id.* at art. 4.1.

8. The Code also includes, as art. 9 (Administration of the Code) the following authorization: “The Tribunal may issue orders, rulings or directions in order to implement the provisions of the present Code.” This is broad authority and includes the power to issue a disbarment order for failure to comply with the Code, including for lack of honesty and candour to the Tribunal.

9. Mr. Marong acknowledges that the Appeals Tribunal has held that “[t]he ability to promote and protect the court, and to regulate proceedings before it, is an inherent judicial power.” *Igbinedion* 2014-UNAT-410, para. 31. However, he argues that this power is “exceptional,” linked to “a tribunal’s case management and ability to conduct hearings,” and that “the Appeals Tribunal sought to ground this power in the authority of the Dispute Tribunal under its Statute and the Rules of Procedure to manage the case before it.”

10. This is a complete misreading of *Igbinedion*. In fact, the Appeals Tribunal rejected an argument that the Dispute Tribunal’s authority is limited by its Statute.

The Secretary-General contends that the power of the Dispute Tribunal is limited by its Statute and, as such, cannot be interpreted as extending to the power to conduct contempt proceedings. **The Appeals Tribunal cannot agree.** The ability to promote and protect the court, and to regulate proceedings before it, is an inherent judicial power. In the opinion of this Tribunal, it is essential to, *inter alia*, a tribunal’s case management and ability to conduct hearings. *Id.* para.31 (emphasis added).

11. Notably, Mr. Marong omitted the phrase “*inter alia*” from his quotation of *Igbinedion*. By using that phrase (which is Latin for “among other things”), the

Appeals Tribunal was expressly NOT limiting this power to case management and the conduct of hearings.

12. On the other hand, Mr. Marong relies on a broad reading of the Appeals Tribunal ruling in *Bertucci* 2011-UNAT-121, although that decision was limited in scope. In that case, the Appeals Tribunal found that “the UNDT was not entitled to sanction the Secretary-General by preventing his counsel from taking part in the proceedings and to deliver a default judgment. In delivering such a judgment, the Dispute Tribunal violated the right of the Secretary-General to be heard and exceeded its competence.” *Id.* para. 52.

13. Indeed, in one of the underlying judgments that was under review, the Dispute Tribunal recounted that “[a]s a consequence of that refusal [to comply with an order to produce evidence, it] ordered that **the respondent was excluded** from participation in the proceedings.” *Bertucci*, UNDT/2010/117, para. 1. (emphasis added)

14. Clearly the appellate holding was directed to that order when it found it improper for the Dispute Tribunal to prevent the Secretary-General/Respondent from being heard at all. Contrary to Mr. Marong’s argument, the Appeals Tribunal did not broadly hold that “the Dispute Tribunal lacked the statutory authority to bar a legal representative of the Secretary-General from proceedings before the Dispute Tribunal.”¹

15. Indeed, in his submission, Mr. Marong acknowledges that his inability to participate as counsel in a case would not prevent the Respondent from being heard. He referred to another application in which he recused himself from involvement because of a conflict of interest. “As a result of my recusal, ECA leadership requested the services of a legal officer from UNHQ. Ultimately, ECA was represented at the SOA proceedings by a lawyer from the Nairobi Office of the Administrative Law Division.”

¹ In its judgment, the Tribunal expressly acknowledged the right of every party to appear and be heard. See, *Kebede* UNDT/2025/054, page. 11, footnote 1. This extends to Mr. Marong’s right to appear, *pro se*, in this and any other matter to which he is a party.

16. Thus, it is clear that, if the Tribunal were to disbar Mr. Marong from participating as counsel in future cases, this would not prevent the Respondent from being heard since other counsel could represent the Respondent.

17. For all these reasons, the Tribunal rejects Mr. Marong's arguments that it lacks legal authority to disbar him from future appearances as a legal representative before the United Nations Dispute Tribunal.

Code of Conduct Violation

18. As to the issue of whether disbarment is appropriate in this case, Mr. Marong argues that he has "personally not committed any ethical violation or professional misconduct."

19. With regard to the false statement in the Reply, Mr. Marong says that the statement was drafted by another lawyer on his team. He admits that he "reviewed the draft but regrettably, did not pick up the impugned statement. As per usual practice, my name and electronic signature were ultimately affixed to the document and filed."

20. Mr. Marong has a similar argument about the redaction of the panel report. He states that, upon receiving the order to disclose that report, he forwarded it to the Director of Administration and the Chief of Human Resources Management Section (Chief HRMS). When he obtained the documents, the Chief HRMS emailed an aide saying "The UNDT has asked for the redacted version of the reports. I would therefore recommend that we mask/remove the names o (*sic*) the assessment panelists and all candidates."

21. The Chief HRMS copied Mr. Marong on the email. Within minutes Mr. Marong responded saying "I agree with the proposed redactions" and also asked if there was a reason why one of the documents was neither dated nor signed. Thereafter, Mr. Marong received the redacted report and filed it, along with the Hiring Manager's justification for the selection decision, with the Tribunal.

22. Mr. Marong asserts that neither he nor the Chief HRMS had any reason to conceal information in the case. However, he fails to explain why they redacted the

names of the interview panelists. Both he and the Chief HRMS had copies of Order No. 143 which only directed that “the name and personal data of the selected candidate shall be redacted.”

23. The obvious conclusion from the additional redaction is that, indeed, someone had reason to conceal that information, which would prove the falsity of the Respondent’s statement that the selection panel was “composed of impartial members who had no prior interactions or conflicts of interest with Mr. Kebede.”

24. Mr. Marong further argues that filing an unredacted version of the Hiring Manager’s email as directed by the Tribunal “suggests that an innocent mistake, rather than a deliberate intent to conceal facts, had taken place with regard to the redaction of the CBI report.” Of course, redacting is an affirmative act involving *scienter*, while neglecting to redact may be an oversight or mistake without *scienter*.

25. A more plausible explanation was that the actual mistake was not recognizing that the unredacted email identified the Hiring Manager. This was the “mistake” that revealed the lie, and thus fatally damaged the Respondent’s case, as examined in the Tribunal’s *Kebede* judgment, *supra*.

26. The Tribunal agrees that Mr. Marong’s submitted evidence shows that neither the false statement nor the improper redaction originated from him. However, the evidence also shows that he endorsed both actions. There are a couple of possible explanations for his approvals: either intentional deception or incredibly gross negligence. Although the evidence seems to support one of these possibilities over the other, it is not necessary for the Tribunal delve further into that issue.

27. Legal representatives play an integral role in the proceedings of the Dispute Tribunal, or any court or tribunal for that matter. They are officers of the court, having special responsibility for the quality of justice. As the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders observed, “[l]awyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.” UN Basic Principles on the Role of Lawyers, para. 12.

28. The Tribunal relies on the truth of lawyer's statements, which is why the Code of Conduct requires legal representatives to always act honestly and candidly. When a lawyer puts his or her name to a submission with the Tribunal, they are certifying that the assertions in that submission are true. This is so even if the lawyer relies on the assistance of others in preparing those submissions. If the lawyer does not personally know about the truth of an assertion, they must conduct a reasonable inquiry to ascertain whether the assertion is truthful and accurate. At best, Mr. Marong failed to do so in this case.

29. In addition, lawyers have an obligation to take remedial action if they later learn that their prior statement is false, even if they reasonably believed it to be true when originally made. Despite this obligation, Mr. Marong never corrected his statement regarding the interview panel membership, even when it became clear that the statement was false.

30. In sum, having considered the submissions, the Tribunal remains persuaded that Mr. Marong failed to meet the basic standards expected of him as a legal representative and thus committed both an ethical violation and professional misconduct.

Appropriateness of Disbarment

31. In addition to the submissions addressed above, Mr. Marong filed various correspondence he received as a result of the *Kebede* judgment. These consist of an anonymous email calling on UN leadership to hold him accountable; an email from the Applicant to UN leadership referring to "Mr. Marong's deceitful lies" and calling for him to lose his law license; and a letter from an attorney in New York asking whether Mr. Marong's conduct "is compatible with his continued employment with [the] Commission."

33. Mr. Marong described this correspondence as a “public campaign against me,” and stated that he had suffered significant harm to his professional reputation because of the judgment. He asked the Tribunal to consider this in determining whether disbarment was appropriate and proportionate.

34. Mr. Marong also asserts that “profound lessons have been learnt from this case by [him] personally, and UNECA as an institution.”

35. Of course, any lessons learned by UNECA are beyond the purview of this order. Nor is Mr. Marong’s standing as an attorney in his national jurisdiction or any issue of accountability (including an appropriate sanction) within the purview of the Tribunal’s authority.

36. On the issue of whether Mr. Marong should be prevented from future appearances as a legal representative before the Dispute Tribunal, the Tribunal is focussed on the integrity of the internal justice system, which was established “consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike.” A/RES/61/261. In other words, would these principles be undermined if Mr. Marong were to appear as counsel before the Dispute Tribunal in future matters?

37. In determining this, the Tribunal has considered all appropriate factors. These include the nature of his misconduct and the fortunate result that ultimately no injustice resulted from his filings. The relevant considerations also include the harm he claims to have suffered as a result of the *Kebede* judgment describing his misconduct, and the impact of these consequences on his future actions.

38. Most importantly, the Tribunal has considered and accepts Mr. Marong’s assurances that he has learned profoundly from this experience. The Tribunal hopes that these lessons will cause Mr. Marong to be assiduous in ensuring that his future filings fully comply with his duties of honesty and candour, along with literal compliance with court orders.

Conclusion

39. In view of the foregoing, the Tribunal DETERMINES that Mr. Marong should not be disbarred and may continue to appear as legal counsel before the United Nations Dispute Tribunal.

(Signed)

Judge Sean Wallace

Dated this 13th day of October 2025

Entered in the Register on this 13th day of October 2025

(Signed)

Isaac Endeley, for Wanda L. Carter, Registrar, Nairobi