

UNDT/2014/024, Utkina

UNAT Held or UNDT Pronouncements

Finality of disputes: The desirability of finality of disputes in proceedings requires that a party should be able to raise a valid defence of res judicata, which provides that a matter between the same persons, involving the same cause of action, may not be adjudicated twice. Res judicata: Once a matter has been determined, parties should not be able to re-litigate the same issue. An issue, broadly speaking, is a matter of fact or question of law in a dispute between two or more parties which a court is called upon to decide and pronounce itself on in its judgment. The object of the res judicata rule is that “there must be an end to litigation” in order “to ensure the stability of the judicial process” (Meron 2012-UNAT-198).Redaction: In the United Nations context, both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal in their published rulings generally identify the applicants bringing cases before them. Transparency is a key element of the new system of justice, but it is an element that must be balanced against the necessity to do justice in individual cases, including by granting certain measures of confidentiality in respect of a party’s identity where it is found to be justified for privacy, security or other compelling reasons. It is essentially a question of weighing the public interest against the private interest. The Tribunal’s default position is that of transparency, unless the Tribunal determines that a competing interest outweighs it. Unless there are unusual or exceptional circumstances, particularly arising from the evidence presented at a hearing before the Tribunal, motions for confidentiality and redaction should be discouraged.Personal data: In many domestic jurisdictions court records and pleadings in civil actions are generally available to the public, and the sealing and redacting of records is normally done under specific statutory provisions and pursuant to established grounds justified by compelling privacy or safety interests that outweigh the public interest in access to the court record. For instance, in the United States, the Federal Rules of Civil Procedure, as well as the rules of civil procedure of many states, contain provisions on the protection of sensitive personal information from unnecessary disclosure in court filings. The types of data considered restricted personal information include, inter alia, social security

numbers, dates of birth, financial account numbers, and driver's license or identification card numbers. It is important to note that the names of parties to a civil case, including the name of dominus litis, are generally not considered to be confidential personal data requiring redaction. Right to privacy and identification of applicant: The Tribunal is enjoined to protect personal data only, and any suggestion that the naming of an applicant automatically leads to a breach of her or his fundamental human rights lacks persuasive legal support and contradict the well-established principle of transparency in judicial matters. Timing of request for redaction: The timing of a motion or application for a closed hearing, for confidentiality and anonymity, and for the sealing or redaction of records is of utmost importance. Requests should be filed within a reasonable time, failing which it may well be argued that the presiding judge is functus officio or that the request has been unreasonably delayed and thus should be rejected.

Decision Contested or Judgment/Order Appealed

The Applicant filed a notice of withdrawal of her application contesting the non-renewal of her contract.

Legal Principle(s)

N/A

Outcome

Closed on withdrawal

Full judgment

[Full judgment](#)

Applicants/Appellants

Utkina

Entity

UNODA

Case Number(s)

UNDT/NY/2012/011

Tribunal

UNDT

Registry

New York

Date of Judgement

25 Feb 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Applicable Law

UNDT RoP

- Article 16.6
- Article 26.2

UNDT Statute

- Article 11.6
- Article 2.1

- Article 3.1
- Article 9.3

Related Judgments and Orders

UNDT/2009/096

UNDT/2011/104

UNDT/2011/202

UNDT/2011/219

UNDT/2012/205

UNDT/2013/045

2010-UNAT-026bis

2010-UNAT-063

2010-UNAT-066

2011-UNAT-129

2012-UNAT-198