



**Before:** Judge Sean Wallace  
**Registry:** Nairobi  
**Registrar:** René M. Vargas M., Officer-in-Charge

OCOKORU

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant is a former National Professional Officer in the Civil Affairs Division at the United Nations Mission in South Sudan based in Abyei.
2. On 30 August 2023, the Applicant filed an application requesting the interpretation of Judgment *Ocokoru* UNDT/2015/004. The application was registered under Case No. UNDT/2023/069. It is the Applicant's contention that the Respondent "misinterpreted the judgment of the Tribunal, leading to a bungled, irregular and inconclusive separation of the Applicant since the Judgment in January 2015".
3. On 1 September 2023, almost simultaneous with the above-mentioned application, the Applicant filed another application contesting, *inter alia*, the non--implementation of Judgment *Ocokoru* UNDT/2015/004. The Tribunal dismissed this application as not receivable *ratione materiae* being barred by the doctrine of *res judicata* in Judgment *Ocokoru* UNDT/2023/109.
4. The Respondent has moved to dismiss the application for interpretation on the ground that it is not receivable.

## **Parties' submissions**

5. The Applicant's principal contentions are:
  - a. The Tribunal, in *Ocokoru* UNDT/2015/004, ordered rescission of the 2012 administrative decision to separate her, her reinstatement, and that should the Secretary-General decide, in the interest of the Administration, not to perform the obligation to reinstate her, as an alternative to pay her compensation in the sum of two years' net base salary at the rate in effect at the date of judgment;
  - b. Rescission and reinstatement or separations are mutually exclusive. Therefore, rescission must precede reinstatement or separation to allow smooth and transparent separation if it is the preferred option to reinstatement;

- c. The fact that no compensation in lieu was ordered by the Tribunal implied that rescission and reinstatement is a must and separation may only follow thereafter if it is in the interest of the Administration;
  - d. To date, no formal termination has been made, no reasons given, and the Separation from Service General Procedure has largely been ignored; and
  - e. The earlier termination of 31 July 2012 having been found to be illegal, the Tribunal could not have sanctioned separation as of 31 July 2012. Therefore, when the Secretary-General chooses separation after judgment, she remained an employee of the Organization until separation is complete.
6. The Respondent's principal contentions are:
- a. The application is not receivable. The Applicant does not seek an interpretation of the meaning or scope of the Judgment in accordance with art. 12(3) of the UNDT Statute and art. 30 of the UNDT Rules of Procedure. Instead, the Applicant expresses dissatisfaction with the Respondent's execution of the Judgment;
  - b. It is trite law that interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubt about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, an application for interpretation is not receivable, whatever the party's opinion about it or its reasoning; and
  - c. Judgment *Ocokoru* UNDT/2015/004 is clear, unambiguous, and requires no interpretation. The Applicant's dissatisfaction with the Respondent's execution of the Judgment is not a matter for interpretation under the applicable rules.

## Consideration

7. Art. 12(3) of the UNDT Statute and art. 30 of the UNDT Rules of Procedure stipulate, respectively, that:

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or the scope of the final judgement, provided that it is not under consideration by the Appeals Tribunal.

and

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement, provided that it is not under consideration by the Appeals Tribunal. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

8. As noted at paragraph 3 above, on 1 September 2023, the Applicant filed an application contesting, *inter alia*, the non-implementation of Judgment *Ocokoru* UNDT/2015/004. The Tribunal determined at para. 13 of Judgment *Ocokoru* UNDT/2023/109, that the issue of whether the Applicant was properly and conclusively separated from service with the United Nations was resolved in 2016 by the payment to the Applicant of two year's net base salary in lieu of reinstating her, pursuant to the *Ocokoru* UNDT/2015/004.

9. Further, the Tribunal recalls that the Applicant tried to raise the claim in Case No. UNDT/NBI/2019/168. In that case, this Tribunal found that the Respondent had opted to compensate in lieu of reinstatement, and this decision of the Respondent was dispositive of the matter (see Judgment *Ocokoru* UNDT/2020/045, para. 14).

10. The Tribunal determines that this application does not meet the requirements of art. 12(3) of the UNDT Statute and art. 30 of the UNDT Rules of Procedure. There is no need to clarify the meaning of Judgment *Ocokoru* UNDT/2015/004 since it was fully implemented years ago. Furthermore, the grounds submitted by the Applicant as a basis for interpretation have already been clearly and unambiguously determined by this Tribunal previously.

**Conclusion**

11. In view of the foregoing, the Tribunal DISMISSES the application as irreceivable.

*(Signed)*

Judge Sean Wallace

Dated this 30<sup>th</sup> day of November 2023

Entered in the Register on this 30<sup>th</sup> day of November 2023

*(Signed)*

René M. Vargas M., Officer-in-Charge, Nairobi