



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2014-UNAT-494

Sutherland et al.

McIlwraith

Ademagic et al. and Longone

Counsel for Applicants:

Self-represented
Robbie Leighton

JUDGE RICHARD LUSSICK , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it a Motion for Execution of Appeal Judgment No. 2013-UNAT-357 in the case of Malmström et al. rendered by the Appeals Tribunal on 17 October 2013. On 4 July 2014, the following nine individuals filed the Motion: Ms. Laurel Amdur Baig, Ms. Susanne Malmström, Ms. Michelle Jarvis, Mr. Robert William Reid, Ms. Carolyn Edgerton, Ms. Ann Elizabeth Sutherland, Ms. Barbara Goy, Mr. Mathias Marcussen, and Mr. Julian Samuel Nicholls (Sutherland et al.) . On 4 August 2014, the Secretary-General of the United Nations filed his response.

2. The Appeals Tribunal also has before it “Ademagic et al. and Longone’s Renewed Motion for an Order Requiring Respondent to Execute the Judgment” (Judgment No. 2013-UNAT-358 in Longone and Judgment No. 2013-UNAT-359 in Ademagic et al., both rendered by the Appeals Tribunal on 17 October 2013). Mr. Miguel Longone and 258 individuals¹ that form part of the Ademagic et al. case (Ademagic et al.) filed their joined Motion on 30 July 2014. On 4 September 2014, the Secretary-General filed his response.

3. The Appeals Tribunal also has before it a “Request for Order of Execution of Judgment” (Judgment No. 2013-UNAT-360) rendered by the Appeals Tribunal on 17 October 2013 in the case of McIlwraith . Mr. Fraser McIlwraith filed the Request on 11 July 2014 and the Secretary-General filed his response on 18 August 2014.

4. In addition, the Appeals Tribunal has before it “Ademagic et al. and Longone’s Expedited Motion to Hold Decision Letters in Abeyance and Without Legal Effect”, filed by Mr. Longone and Ademagic et al. on 1 August 2014. The Secretary-General filed his response on 29 September 2014.

5. For reasons of judicial economy, the Appeals Tribunal consolidated the four motions filed by Sutherland et al., Ademagic et al. and Mr. Longone, and Mr. McIlwraith.

¹ Listed in Annex 1.

permanent contract. This applies equally to any litigant staff members who were part of the original conversion exercise at issue but have since left the service of the ICTY.

8. The Appeals Tribunal also awarded compensation in the amount of EUR 3,000 per person, payment to be executed within 60 days from the date of issuance of the Judgments to the parties.

9. By Order No. 178 (2014), issued on 2 April 2014, the Appeals Tribunal granted a Motion filed by the Secretary-General requesting an extension of the time limit in which to complete the new conversion process until 19 June 2014.

Submissions

Sutherland et al.'s Motion for Execution of Judgment

10. Pursuant to Article 27 of the Rules of Procedure, Sutherland et al. ask for an order for execution of the Appeals Judgment in their cases. The new decisions on the Applicants' requests for conversion to permanent appointments disregard the Appeals Tribunal's clear instructions regarding the framework for the second round of the conversion exercises.

31. The Appeals Tribunal's decision not to determine whether Mr. McIlwraith should be granted a permanent appointment is *res judicata*. He has previously asked for precisely the same order in his appeal and the Appeals Tribunal has declined to grant that request. Turning to the request that in the alternative the Appeals Tribunal award him termination indemnity, the Secretary-General contends that, since Mr. McIlwraith has not been granted a permanent appointment, he has no entitlement to compensation that is equivalent to the termination indemnity.

32. Mr. McIlwraith's request for moral damage

Management Evaluation Unit before the deadline in mid-August. The Appeals Tribunal's order holding the decision letters in abeyance will preserve the status quo pending the review by the Appeals Tribunal. Should the Appeals Tribunal deny the Motion, it should declare the administrative decisions as dated the date of the Appeals Tribunal's Order.

The Secretary-General's Response to Ademagicet al. and Longone's Expedited Motion to Hold Decision Letters in Abeyance and Without Legal Effect

36. The deadline for management evaluation has passed and 249 of the Applicants have already filed their requests for management evaluation of the new decisions. The Motion is therefore moot and should be dismissed. With respect to the Applicants' request that the Appeals Tribunal declare the administrative

order for execution pursuant to Article 11(4) of the Appeals Tribunal Statute and Article 27 of the Rules of Procedure.

39. Recourse for the complaints of Sutherland et al., Ademagic et al., Mr. Longone and Mr. McIlwraith, regarding the conversion process undertaken subsequent to the Appeals Tribunal's rulings, is not to be found in an application for execution but rather in Staff Rule 11.2. This rule provides the mechanism whereby the complained-of decisions of the ASG/OHRM can be challenged by the affected staff members. Thereafter, if necessary, the staff members may seek judicial review.

Ademagic et al. and Mr. Longone's motion to hold decision letters in abeyance and without legal effect

40. By Motion filed on 29 July 2014, Ademagic et al. and Mr. Longone request that the Appeals Tribunal hold the decision letters issued to them by the ASG/OHRM in abeyance until the Appeals Tribunal has ruled on their motion for execution. As the Appeals Tribunal has now ruled on their motion and given that the time limit for management evaluation has passed, the application to hold in abeyance is moot. In the event of a negative decision to their application for execution, the staff members request that the Appeals Tribunal declare the date of the decisions on conversion as the date of the Appeals Tribunal's Order. This application is without merit as the Appeals Tribunal does not have jurisdiction to change the date of administrative decisions.

41. For the foregoing reasons, the motion is denied.

Judgment

42. The Motions are denied.

Original and Authoritative Version: English

Dated this 17th day of October 2014 in New York, United States.

ANNEX 1

A	B	C
ADEMAGIC, Ernesa	BAIER, Kenneth	CAR, Rudolf
AGIC, Alma	BAJNOCI, Marie	CASALS, Isabelle
AGIC-KANDZIJAS, Adisa	BARTULA, Darko	CHAMANKOOL, Sakon
AGOLI, Dita	BASHIR, Omar	CHARTIER, Christian
AHMIC, Hazim	BARSONY, Robert	CHATTERJEE-MARS, Veronique
AJAS, Nathalie	BATTLE, Gregory	CHAUVIN, Jamila
ALBERS, Jules	BECKER, Lidia	CHOUCAIR, Marc
ALIC, Nijaz	BEGOVIĆ, Monika	CIKARA, Ante
AMEERALI, Carline	BIALEK, Malgorzata	CIRIC, Ana
AMMERAAL, Chiel	BLASZCZYK, Tomasz	COLLEYE, Sophie
ANDRIC, Bojan	BLAZEVIĆ, Biljana	COTTAM, Richard
ANTOLIC, Branko	BOBBY-JAVIER, Carmela	CULLEN, Kevin
AZDAJIC, Igor	BOEREBOOM, Femke	CULJAK-VASIC, Ljiljana
	BORJA, Maria Dolores	CVETKOSKA, Dragica
	BORRELLI, Allen	
	BOS, Roeland	
	BOUWKNECHT, Ramon	
	BOWDEN, Simon	
	BOWDEN, Taryn	
	BRAND, Pamela	
	BRETTELL, Amanda	
	BROESHART, Michael	
	BROUWER, Ibn	
	BRUKX, Dirk	
	BUCKLEY, Paul	
	BUNCE ARTEAGA, Susan	
	BYSINA, Piotr	
D	E	F
DALGAARD, Klaus	EBEO, Margie	FEATHERSTONE, Yvonne
DAWSON, Grant	ERAKOVIC, Jasminka	FIMMERS, David
DAWSON, Tatjana		FLATON, Nuria
DE RIJK, Alexander		FOLEY, Suzanne
DE RU, Inger		FRACASETTI, Marta
DE WITT, Augustus		
DELIC, Jelena		FRENDRUP, Sonja
DEMIRACA, Lejla		FRENEY, Helen
DICKS, Brian		
DIVKOVIC, Zlata		

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G	H	I
GAL, Milan	HASANAGIC, Zeljka	IBRAHIMOVIC, Damir
GALICIA, Lourdes	HEHN, Michael	IMAMOVIĆ-IVANOV, Alma
GALINIER, Pierre	HENR Y-FRIJLINK, Donnica	
GALINIER, Yvonne	HEPBURN, Philip	
GALURA, George	HOEFER, Claudia	
GARMAN, Jennifer	HOFMAN, Merlene	
GASHI, Driton	HONDEBRIN K-HERMER, Leslie	
GAVAZ, Erol	HOUNIET, John	
GAVIN, Patrick		
GEORGELIN, Fabrice		
GEORGIJEV, Goran		
GLLAVA, Lulzim		
GOLDER, Paul		
GRADY, Paul		
GRAY, Jantina		
GRUBIC, Sandy		
J	K	L

MULASHANI, Raphael		
MWAKITALU, Jasson		
P	Q	R
PAVICIC, Alexander	QUEGUINER, Barbara	RAMIREZ RODRIGUEZ, Sandra
PEJCINOVIC, Jasminka	QUINIOU, H�el�ene	REINDERS, Antonia
PEREZ, Antonio		REYES, Vida
PERKS, Judith		RICHARDSON, Marcus
PIEKOS, Kazimierz		ROEST, John
PODRUG, Elmedina		ROSANDIC, Eduard
POPOVIC, Nenad		ROSANDIC, Tatjana
POUJADE, Virginie		ROSENKRANDS, Flemming
PRENDERGAST, Kevin		ROYES DE JONG, Tricia
PUN, Dhan Bir		
S	T	V
SADIKU, Ardiana	TAKAWIRA-MAGAYA, Angeline	VALENZUELA GARCIA, Enrico
SALCINOVIC, Edina	TANNER, Catina	VAN BIJSTERVELD, Marianne
SANDBERG, Anders	TERZIEVA, Vessela	VAN DER EERDEN, Bram
SARACINI, Mirlinda	TODOROVIC, Marija	VAN DER HEIJDEN, Michael
SARKIC, Brana	TOMASEVIC-QUICK, Stella	VAN DER LAAN, Dayna
SARTORIO-MCNABB, Laurie	TOMIC-VAN DIEREN, Biljana	VAN DIJK-GRUJIN, Sanda
SASIC, Borislava	TOMLJANOVICH, William	VAN ES, Leo
SCEKIC, Dragan	TOONEN, Marco	VAN OOSTEROM, Tom
SCHOONEMAN, Renee	TOTTO2TOTTO2TOTTO2TOTTO2TOTTO2T96 394.92 .48 11.4 re f 227.58 394.9V3	