

Case No. 2012-359

Nwuke (Respondent/Applicant)

v.

Secretary-General of the United Nations

(Appellant/Respondent)

ORDER No. 100 (2012)¹



5. The Appeals Tribunal previously held that it

[...] may make an interim order for temporary relief, pending the outcome of the appeal, on two conditions:

i) It must be satisfied on a balance of probabilities that there is real likelihood of irreparable harm which can be prevented if temporary relief is granted; and

ii) The temporary relief granted is consistent with the judgment of the Dispute Tribunal. ²

6. This interim measures relief is available to protect a party, which the Appeals Tribunal believes is likely to succeed on appeal, and, where there is real likelihood that without receiving the temporary relief, justice will in effect be denied even if the party succeeds on appeal. The likelihood of success on appeal is the rationale for the Appeals Tribunal's Statute requiring that any interim measure for temporary relief must be consistent with the judgment of the Dispute Tribunal.

7. In the present case, Mr. Nwuke does not seek an interim measure for temporary relief which is consistent with the judgment of the Dispute Tribunal. He in fact seeks the exact opposite, namely the suspension of action which the UNDT did not grant him. Since therefore one of the two cumulative conditions under Article 9(4) of the Appeals Tribunal's Statute is not fulfilled, I need not further consider the second condition.

8. For the foregoing reason, Mr. Nwuke's requ