Judgment

Considerations

9. According to art. 9 of the Rules of Procedure of the United Nations Dispute Tribunal (UNDT RoP), which are based on art. 7.2 of the Statute of the United Nations Dispute Tribunal (UNDT Statute), the Dispute Tribunal may determine, on its own initiative, that summary judgment is appropriate. This may usually happen when there is no dispute as to the material facts and judgment is restricted to a matter of law. The crucial question in this case - if and when the Applicant could withdraw her application - is such matter of law.

10. According to art. 8. 1 (b), 3.1 and 2.1 of the UNDT Statute any case in front

14. With reference to these criteria there are no reasonable doubts that the Applicant has withdrawn her action already by her e-mail dated 22 June 2009 saying that she prefers "to stop and forget what has happened". In particular as a reaction to the JAB's reminder that no objections of the Applicant in view of the Respondent's reply had been received until then, these words and their meaning can only be understood as the clear expression of the Applicant's wish to finish with her case immediately and without any further action.

15. Once sent to the court a withdrawal of action cannot be made undone. In general procedural law does not tolerate to turn back the clock, as reasons of security and reliability tie the parties to their statements unless they were in error about their meaning. As the Applicant does not argue that she did not know what she said when she wrote that she preferred "to stop and forget what has happened", it is irrelevant that in her e-mail dated 19 July 2009 the Applicant now wanted to clarify still she was "not confident to take any action in this regard again". Although the Applicant may - at that time - have had second thoughts about her position and potentially wanted to keep her case ongoing, it was and is not possible to withdraw the withdrawal. As such, the Applicant's last e-mail saying that she does not want to follow up about her case has no legal effect but is only of declaratory character.

Conclusion

16. For the reasons de 0   l

(Signed)

Judge Thomas Laker

Dated this 24th day of September 2009

Entered in the Register on this 24th day of September 2009

(Signed)

Víctor Rodríguez, Registrar, Geneva