



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2011/078

Order No.: 032 (NBI/2012)

Date: 21 March 2012

Original: English

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**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:**







- a. Respondent's Counsel fully intended to comply with the Order No. 012 (NBI/2012) but regrettably failed to properly calendar the reply deadline.
- b. Respondent's Counsel had neither a legal assistant nor administrative assistant within the Office of the Director-General to assist her in the management of the calendar of cases and other legal matters, it is left to Counsel to calendar all dated upon receipt of orders and other communication from the Tribunal.
- c. The lapse in filing a timely reply "was due to inadvertence and excusable neglect by failing to transfer the filing deadline to the electronic calendar associated with Lotus Notes so as to trigger e-mail reminders of the deadline as it approached".

### **Considerations**

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Order of the Tribunal, (Order No. 012 (NBI/2012), that Counsel for the Respondent created the said CCMS account needed to access case records. The Tribunal had also in that Order granted the Respondent a further 30 calendar days in the interests of justice to file a reply. That notwithstanding, Counsel failed to file the said reply.

18. Article 35 of the Tribunal's Rules of Procedure empowers the Judge hearing a case to shorten or extend a time limit fixed by the Rules or to waive any rule when the interests of justice so require. In the present case, between the two extensions provided to the Respondent to file a reply, Counsel has written on numerous occasions to the Tribunal to explain why she would not utilize the eFiling portal, brought a Motion for a declaratory Order to, as she put it, to clarify the rights and obligations of the parties and sought a ruling by the Tribunal. Despite all of this ancillary correspondence, Counsel was provided an additional 30 calendar days to file a reply. Counsel now states that she is overworked and her office understaffed and that she forgot to file her reply within time! She continued to forget until the Applicant called the attention of the Tribunal four days after the expiry of the deadline for filing a reply. Counsel was copied in on this communication.

19. It was 11 days after the expiry of the deadline for filing the Respondent's reply that Counsel filed her Motion for leave to file a late reply and participate in the proceedings. In the circumstances, the Tribunal is not convinced by the reasons proffered by Counsel and accordingly rejects her application for leave to re-enter the proceedings.

20. In view of the preceding, it would not be in the interests of justice and the integrity of the judicial process to continue to allow Counsel for the Respondent to act in clear disregard of the Tribunal's Orders at the expense of the Applicant and the administration of justice. The Respondent's Counsel's application for leave to take part in the proceedings is accordingly

