



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2013/014
Order No.: 105 (NBI/2013)
Date: 16 May 2013
Original: English

Before: Judge Nkemdilim Izuako
Registry: Nairobi
Registrar: Abena Kwakye-Berko, Officer-in-Charge

Von Der SCHULENBURG

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON THE RESPONDENT'S MOTION
FOR PRELIMINARY
DETERMINATION OF
RECEIVABILITY AND LEAVE TO
FILE A REPLY LIMITED TO
RECEIVABILITY

Counsel for Applicant:
Francois Lorient, Esq.

Counsel for Respondent:
Stephen Margetts, ALS/OHRM, UN Secretariat
Steven Dietrich, ALS/OHRM, UN Secretariat

Background

1. The Applicant is a staff member who previously served as an Executive Representative of the Secretary-General at the level of Assistant Secretary-General (ASG) at the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) until his separation from the Organization on 12 April 2013.

2. On 16 April 2013, the Applicant filed an Application contesting the allegedly disguised disciplinary decision to suddenly terminate him without due process and based on allegedly ‘undated, endless, directionless, groundless, and unconcluded investigations which harmed his reputation, his contractual rights and career prospects’, in addition to alleged ‘concealment of the Office of Internal Oversight (OIOS) disciplinary investigations procedures, findings and reports.’

3. On 22 April 2013, the Registry of the Tribunal served the Application upon the Respondent and directed that pursuant to article 10 of the Dispute Tribunal’s Rules of Procedure, the Respondent was to submit his reply to the Application 30 calendar days from the date of receipt of the Application.

4. On 15 May 2013, the Respondent filed a Motion for Preliminary Determination of Receivability and Leave to File a Reply limited to Receivability. Therein, the Respondent submits that the Application is not receivable *ratione temporis* on account of the Applicant’s failure to request management evaluation of the alleged decisions to either terminate him or not to renew his appointment within the 60 day time limit posited in Staff Rule 11.2 (c)

5. Vide the motion dated 15 May 2013, the Respondent further argues that the issue of receivability raises questions of law, not fact, and can be determined in

Consideration

6. The Tribunal is cognizant of the fact that its jurisdiction to entertain the

11. Pursuant to the notification sent to the Respondent on 22 April 2013, the Respondent shall file his Reply to the Application by or before 22 May 2013.

12. The Applicant shall file his response to the Respondent's Motion on Receivability by or before 31 May 2013.

(Signed)

Judge Nkemdilim Izuako

Dated this 16th day of May 2013

Entered in the Register on this 16th day of May 2013

(Signed)

Abena Kwakye-Berko, Officer-in-Charge, Nairobi Registry