
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2013/083
OrderNo. 250 (NBI/2014)
Date: 12 November 2014
Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye Berko

NYASULU

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

ORDER FOR PROTECTIVE
MEASURES FOR THE APPLICANT'S
WITNESS

Counsel for the Applicant:
Nicole Washienko, OSLA

Counsel for the Respondent:
Elizabeth Gall, ALS/OHRM

Introduction

1. The Applicant is a former Chief Judicial Affairs Officer at the United Nations Mission in Liberia (UNMIL) in Monrovia, Liberia who served at the D-1 level.

2. On 7 November 2013, the Applicant filed an Application challenging the decision to abolish his post and not to renew his contract. The Applicant further contests the decision to require him to go through a competitive recruitment process for the position of Principal Rule of Law Officer, UNMIL, at the D-1 level.

3. The Tribunal commenced hearing the Application on 28 October 2014 and vide Order No. 237 (NBI/2014) adjourned the hearing to 10 November 2014 (10-11(1)9(4T Q q BT /F1 11

b. Witness X had agreed to testify only if his/her name and identity were not revealed to the Respondent.

c. Witness X's evidence, if provided orally and

Tribunal. In the absence of such an assurance, it is most unlikely that witnesses will come forward²

10. Consequently, the Tribunal in that case made appropriate orders for the protection of the Applicant's witnesses from all forms of intimidation or threats. The said orders specifically prohibited any threats to the security of their employment or to the development of their career within the Organization including retaliation in any shape or form as a result of giving testimony before the Tribunal.

11. This Tribunal reaffirms the well-established principle that a staff member has the right to enjoy the protection conferred upon him by his/her contract of employment and by the Rules and Regulations that govern the Organization

12. The Tribunal also restates the universal truth that reliable evidence which include the testimonies of witnesses are critical to the work of Courts and Tribunals in the dispensation of justice.

13. This Tribunal is fully aware of its grave responsibility to ensure that staff members and others who engage in the protected activity of giving testimony before it are not subjected to any kind of harm or the compromise of their career as a result.

14. The apprehension of Witness X who was granted anonymity in the course of giving testimony in this case is well noted.

IT IS ACCORDINGLY ORDERED:

15. Witness X shall not be subjected to:

- a. intimidation or threats, either physical or verbal, having testified before the Tribunal;
- b. threats to the security of his/her employment, or development of his/her career, with the United Nations; and

² At paras. 33 and 34.

c. retaliation of any other sort as a result of testifying before the Tribunal.

16. The Parties are reminded of the seriousness of this matter that any breach of this Order shall constitute contempt of the Tribunal and the judicial process of the internal justice system of the United Nations.

17. In the event of any breach of this order, Witness X shall have direct recourse to the Tribunal, in accordance with its statute and the applicable Rules of Procedure

(Signed)

Judge Nkemdilim Izuako

Dated this 12th day of November 2014

Entered in the Register on this 12th day of November 2014

(Signed)