



Introduction

1. The Applicant is a former staff member of the World Food Programme's Gode Office in Ethiopia. On 22 December 2014, he filed an Application contesting a decision to terminate his appointment as a disciplinary sanction.

2. The Respondent filed a Reply to the Application on 3 February 2015 having been granted an extension of time do so by the Tribunal.

Background and facts

3. On 3 September 2015, in Order No. 265 (NBI/2015), the Tribunal informed the Parties that the oral hearing in this matter would take place from 13 to 15 October 2015 and requested that the Parties file their list of witnesses and witness statements by 30 September 2015.

On 30 September 2015, in its Response to Order No. 265, the Respondent provided its list of witnesses and requested that a Somali language interpreter be made available for two of the witnesses.

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were submitted to the Tribunal on 30 September 2015 in the Respondent's Response to Order No. 265, in lieu of their live testimony.

9. On 29 October 2015, the Respondent filed the present Motion. The Respondent submits that he has used his best efforts to identify and engage a neutral interpreter with the necessary qualifications, but has not yet been able to do so and does not currently have any concrete leads on identifying a qualified neutral interpreter.

10. The Respondent further submits that in consideration of the expeditious conclusion of this case, in the interests of all Parties, and in view of the difficulty of locating a neutral qualified interpreter, that the Tribunal should rely on the sworn statements submitted to the Tribunal in the Respondent's Response to Order No. 265 as Annexes 16, 17 and 19, in lieu of the live testimony of those witnesses.

Considerations

11. The Tribunal has taken note of the Respondent's submission and the difficulties that he has encountered in retaining the services of a Somali interpreter but is unable to accede to the Motion.

12. The Tribunal recalls what the General Assembly stated in para. 4 of A/RES/61/261 (Administration of Justice at the United Nations)¹:

Decides to establish a new, independent, transparent, professionalized, **adequately resourced** and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike (emphasis added).

13. The above was reiterated in the preamble to A/RES/62/228, (Administration of Justice at the United Nations)² and reaffirmed in para. 8 of A/RES/66/237 (Administration of Justice at the United Nations)³.

¹ Adopted on 4 April 2007.

² Adopted on 22 December 2007.

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presenting documents, subject to the rules of relevance (v)9(a)-3T /F1 te (v)9(a)-3T /F1 te (v)9(a)-3

or the Organization's system of internal justice will fail. The lack of budget has already brought us close to that situation.

21. The same reasoning should be made applicable to facilities for interpretation and translation. Lack of resources, human or financial, cannot be used as a gateway to annihilate due process in a trial.

22. It is the considered view of the Tribunal that a party should not be unduly deprived of putting his/her case properly before the Tribunal on account of logistical difficulties in securing the services of an interpreter. The Secretary-General has the responsibility for ensuring that all facilities are made available for the Tribunal to properly allow parties to present their case and evidence. This is consonant with due process that is the hallmark of fair proceedings before courts of law. There must indeed be strongly compelling reasons that may deprive a party of the substance of fair trial and the protection of the law.

23. In the present case, the Respondent must have an opportunity to present evidence irrespective of the language of the witnesses. It is the Secretary-General's responsibility to make available to the /F3 11.28 Tf 0 0 0 rg 0.2 g bib