



Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel, Registrar

GALLO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Paul Harris, PC

Counsel for Respondent:

ALS/OHRM, UN Secretariat

a professional and ethical duty to act respectfully, with full disclosure and in good faith. Practice Direction No. 2 stipulates that in the absence of a code of conduct, counsel authorised to practice law in a national jurisdiction shall be subject to the rules of their national bar association (para. 8). In many jurisdictions, leave of the court is required for the withdrawal of counsel and substitution of new counsel depending on the circumstances. It is not unreasonable to expect that this professional and ethical duty extends to giving the reasons necessitating a change in counsel, particularly if counsel concerned are situated in a different duty station than that where the application is filed.

11. Furthermore Practice Direction No. 2 states that the information contained therein is subject to the Dispute Tribunal's Statute and Rules of Procedure, "or any direction given by a judge in a particular case" (para. 2). In this instance, the Tribunal directed a reasoned submission on the necessity for a change of counsel, as the appointment of counsel outside the Registry where the case is filed is not without consequence. Amongst others, the Tribunal has to weigh the impact on the ability of the parties to pursue the matter without undue financial or other constraints, to consider equality of arms, logistical implications, judicial economy, and to assuage any perception of forum shopping if a change of venue is necessitated, and so on. The Tribunal, as well as Counsel for the parties, has the responsibility to ensure the efficiency and cost-effectiveness of the system of justice.

12. The Respondent also contends that the location of Counsel is no bar to representation at any duty station, citing instances with approximate case numbers whereby cases pending in Nairobi and Geneva, have representation at headquarters in New York. This may well be so, but it is apparent from recent Orders made by the Dispute Tribunal in those locations, that this is not without consequence on the speed and efficacy of proceedings (*Survo* Order No. 80 (GVA/2015), *Ncube* Order No. 113 (NBI/2015)). The Tribunal appreciates that there may, of course, be systemic issues regarding adequacy of resources at ALS in the representation of the Respondent at any given time. The General Assembly, in setting up the new

internal justice system, envisaged an adequately resourced system of justice, and any resource and other justice delivery issues should be raised with the appropriate authorities.

13. Furthermore, decentralization was one of the primary objectives of the new system of administration of justice, and an applicant is enjoined to file at the appropriate registry of the Dispute Tribunal, “taking into account geographical proximity and any other relevant material considerations” (art. 6 of the Rules of Procedure). To that end, and principally for efficiency, cost effectiveness and logistical purposes, the Dispute Tribunal’s Judges at Plenary decided on a redistribution of the Asia and Pacific cases, from New York to Geneva with effect from 1 July 2014. The Respondent contends that any logistical implications that may arise if counsel is remotely located are addressed by counsel in collaboration with

the Respondent submits that due to matters of confidentiality and privilege, ALS Counsel have to withdraw and HRLU Counsel be designated as Counsel for the Respondent in this case. This of course does not explain why alternative ALS Counsel in New York are unavailable. However in weighing up all the circumstances in this case, the Tribunal accepts the designation, in good faith, of Ms. Cochard and Ms. Nottingham as Respondent's counsel of record and directs that they be granted access by the Registry in New York to the filings in this case, subject to the caveat that any additional costs incurred by the Applicant in the future as a result of inefficient sitting times and proceedings may well become an issue if the matter proceeds to trial.