

Case No. UNDT/NY/2016/044

Order No. 243 (NY/2017)

7. On 11 April 2017, by Order No. 73 (NY/2017) the Tribunal instructed the parties' counsel to participate in a Case Management Discussion ("CMD") in New York set down for 20 April 2017.

8. On 20 April 2017, Counsel for both parties participated in a CMD, with the Applicant's Counsel participating remotely from Geneva, and discussed the logistical aspects such as communication technology, the number and location of witnesses, the

1. An application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations.
 2. The Dispute Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.
18. Pursuant to art. 19 of its Rules of Procedure, the Tribunal:
- [...] may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.
19. Pursuant to art. 16.1 of its Rules of Procedure, “the judge hearing a case may hold oral hearings. Pursuant to art. 16.2 of its Rules of Procedure, “a hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure”.
20. In the Report of the Redesign Panel, the Panel of external and independent experts noted that (see at para. 24):
- [...] There are particular problems with respect to misconduct and disciplinary cases, which constitute the bulk of cases in peacekeeping missions. In disciplinary cases, physical distance between field duty stations and Headquarters results in substandard justice. Staff members in field offices and peacekeeping missions who are the subject of disciplinary proceedings before JDCs [Joint Disciplinary Committees] at Headquarters are frequently interviewed by telephone. They have little or no opportunity to present their case and answer questions in person. This practice is only a few degrees removed from trials in absentia.
21. The Panel further noted that “[h]earings, too, are a clear requirement in international standards whenever there are disputed issues of fact. To guarantee due process and to facilitate decisions, oral hearings should be promoted and accepted” (see at para. 10).
22. In the case of *Kashala* UNDT/2014/023, the Tribunal emphasized a staff member’s right to adjudication of an appeal on a disciplinary matter, particularly one which is quasi-criminal in nature and stated:

31. In the preamble to General Assembly resolution 66/106 (Code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal), specific reference is made to the principle of access to justice. The second paragraph of the preamble reads:

Whereas the Universal Declaration of Human Rights recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of rights and obligations.

32. Article 14.1 of the International Covenant on Civil and Political Rights (ICCPR) is couched in similar terms and reads: “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law [...]”.

23. In the instant case, the Applicant does not simply contest whether In@

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