


Judgment No. 2020-UNAT-981



Counsel for Ms. Nouinou: Self-represented

Counsel for Secretary-General: Maryam Kamali

7. On 19 October 2018, Ms. Nouinou wrote to the Secretary-General requesting a management evaluation of the decision not to renew her temporary appointment beyond 23 October 2018. Subsequently, her appointment was renewed first for a week through 31 October 2018 due to her being on sick leave and then for another week through 9 November 2018 while her request for management evaluation was pending.

8. In a letter dated 8 November 2018, the Management Evaluation Unit (MEU) informed Ms. Nouinou of the outcome of the management evaluation that the Secretary-General had decided to uphold the decision not to renew her contract.

9. On 27 November 2018, Ms. Nouinou filed an application with the UNDT contesting various issues in connection with her recruitment and employment at the OCT and the subsequent non-renewal of her appointment.

10. In Judgment No. UNDT/2019/073 issued on 1 May 2019, the UNDT rejected Ms. Nouinou's application in its entirety. The Dispute Tribunal concluded that Ms. Nouinou's application against the decision to select her for the TJO position was not receivable both because it was time-barred and because it did not concern an appealable decision in the sense that she did not suffer any harm from that decision. Also, not receivable

12. During the course of the present proceedings, Ms. Nouinou has filed a number of motions detailed in the considerations below.

13. The Dispute Tribunal abused its power and exceeded its jurisdiction and competence by focusing on the Respondent's closing statement, in total disregard of her detailed submissions and multiple requests for discussions and hearings or her request for witness appearance. The UNDT Judge intentionally avoided the legal process of case management discussion and oral hearing. He summarized Ms. Nouinou's contentions as "various issues" without stating them in detail. A different Judge and a different Respondent's representative were assigned to her case without her being notified thereof.

14. Orthographic errors in the impugned Judgment demonstrate speed and lack of focus on the part of the UNDT Judge.

15. The UNDT made factual errors about when she was notified of her selection for the TJO. It reached its conclusions without laying out all the facts and "without seeing her

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23. The Secretary-General requests that the Appeals Tribunal affirm the impugned Judgment and dismiss the appeal in its entirety, because it is unsubstantiated and unsupported by evidence.

Preliminary issues

Oral hearing

24. Ms. Nouinou filed a request for an oral hearing. Oral hearings are governed by Article 8(3) of the Appeals Tribunal's Statute, which states: "[t]he judges assigned to a case will determine whether to hold oral proceedings" and by Article 18(1) of the Appeals Tribunal's Rules of Procedure (Rules), which states: "[t]he judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case". The factual and legal issues arising from this appeal have already been clearly defined by the parties and there is no need for further clarification. Moreover, we do not find that an oral hearing would "assist in the expeditious and fair disposal of the case", as required by Article 18(1) of the Rules. Accordingly, the request for an oral hearing is denied.

Motions filed by Ms. Nouinou

dated 30 January 2019, the Appeals Tribunal denied Ms. Nouinou's motion to file additional pleadings.

27. On 29 March 2019, the Appeals Tribunal orally pronounced that the Secretary-General's appeal was granted and that Judgment No. UNDT/2018/070 was vacated. That decision was to be subsequently released in Judgment No. 2019-UNAT-902. Following the oral pronouncement, in April 2019, Ms. Nouinou filed two motions: "Motion to Overcome Judicial Bias and Withhold Case for Independent Oversight" and "Motion for Clarification, Dissuasion and Reconsideration".

28. In Motion one, Ms. Nouinou alleged that the Secretary-General, the Administrative Law Section and the Appeals Tribunal, "all Males", "conspire[ed]" to "sign [her] death penalty after using her bright skills" during her career with the Organization. Ms. Nouinou requested that an independent panel be assigned to "check/oversee the [a]ppeal's credibility" and that the Appeals Tribunal "withhold her case" and not issue the judgment in her case. In Motion Two, Ms. Nouinou "ordered" the Appeals Tribunal to immediately remove, for her safety, Order No. 339 Corr. (2019) from the Appeals Tribunal website or to redact paragraph 3 of the Order. She again "urg[ed] the [Appeals] Tribunal to reconsider voiding the [a]ppeal that is a [s]ham".

29. By Order No. 344 (2019) dated 1 May 2019, the Appeals Tribunal denied Ms. Nouinou's motions, deciding:

[t]here is no legal basis for granting Ms. Nouinou the relief she seeks in Motion One. Article 10(5) of our Statute provides that the judgments of the Appeals Tribunal shall be binding upon the parties; and Article 10(6) of the Statute provides that the judgments of the Appeals Tribunal shall be final and without appeal, subject only to the provisions of Article 11 of the Statute. Article 11 permits for a revision of a judgment on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and the applicant for revision and provided the ignorance was not due to negligence. ... The grounds raised by Ms. Nouinou do not fall into the category of permissible grounds for reconsideration stipulated in Article 11. ...

With regard to Motion Two, paragraph 3 of Order No. 339 Corr. (2019) states that Ms. Nouinou lost her short-term assignment in the Office of Counter-Terrorism which in her opinion put her in "difficult risky dangerous situation" in regard to her [personal affairs]. The redaction of evidence is only permitted where it is necessary to protect information of a confidential and sensitive nature. Ms. Nouinou provides no

rational or coherent basis for concluding that the disclosure in Order No. 339 Corr. (2019) ... is so sensitive as to override the requirement of judicial transparency.

30. A day after the issuance of Order No. 344 (2019), Ms. Nouinou filed a submission stating her disagreement with the Order and requesting its annulment. A day after the issuance of Judgment No. 2019-UNAT-902 on 29 May 2019, Ms. Nouinou filed another motion entitled “Appellee’s Follow-up on Motion of 2 May 2019 and Question about Judgment 2019/UNAT/902”.

31. In Order No. 348 (2019) issued on 20 June 2019, the Appeals Tribunal denied Ms. Nouinou’s motions, finding that those motions were “clearly without merit, frivolous and constitute[d] an abuse of process”. The Appeals Tribunal warned Ms. Nouinou that if she kept abusing the process, it would have no choice but to award costs against her pursuant to Article 9(2) of the Appeals Tribunal Statute.

32. On 27 June 2019, as mentioned before, Ms. Nouinou lodged the present appeal. On

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though she personally contributed to the disclosure of such data, in particular with the letters requesting the establishment of a fact-finding panel to investigate his supervisor, as an “espionage-hungry spy” or requesting an investigation into his supervisor’s activities as “a possible [s]py” for a Member State and as an “anti-immigrant” “villain”, which she sent to the Secretary-General of the United Nations and to the OIOS and attached to her appeal. Granting confidentiality motions would therefore encourage Ms. Nouinou in her obstinate attitude and in a "perverse game" in which she fuels the conditions of her own victimization. The motion filed on 20 March 2020 aims at responding to the Respondent's observations on the motion that Ms. Nouinou filed on 13 March 2020. Our rules of procedure do not provide for the possibility of responding to observations on a motion. The motion is not receivable and is denied.

Motion to exclude Judges from the present appeal

39. Ms. Nouinou claims that “to avoid [c]onflict of [i]nterest and [b]ias and to [e]nforce [a]ccountability”, the Appeals Tribunal Judges, who have rendered judgments in cases in which she was a litigant, should be excluded from the present appeal.

40. This motion contains, once again, serious accusations against the Judges of this Tribunal. Without providing any evidence in its support, this motion accuses some Judges to be “[a]busive” and “[u]nfair”. This statement is derogatory, baseless, and abusive, in clear violation of the Code of Conduct for Legal Representatives and Litigants in Person, which states:

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(d) Committed an error in procedure, such as to affect the decision of the case; or

(e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

51. The grounds for which an appeal can be lodged are limited and the Appeals Tribunal has no discretion to deviate from Article 2(1) of its Statute.

Did the UNDT err in deciding that the appeal of the selection for a temporary job and the claim about the terms of employment at the OCT were n

55. Moreover, Ms. Nouinou suffered no harm by being selected for a temporary job in OCT and subsequently accepting the offer. It is necessary to recall that “an appeal is not receivable if it does not identify a concrete

Did the UNDT err in considering that Ms. Nouinou did not substantiate the unlawfulness of the non-renewal of her temporary appointment and is it necessary to remand the case for additional fact-finding about this issue?

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THE UNITED NATIONS APPEALS TRIBUNAL

which [Ms. Nouinou] did not participate because she did not submit a job application before the selection decision was made”.¹³

74. In this regard, the UNDT properly used its discretion not to order additional fact-finding into the allegations that could not alter its decision. There is no need to remand the case.

¹³ *Ibid.*, para. 10.

75. The appeal is dismissed and Judgment No. UNDT/2019/073 is hereby affirmed.

Original and Authoritative Version: English

Dated this 27th day of March 2020.

(Signed)

Judge Neven, Presiding
New York, United States

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Halfeld
Bournemouth, United Kingdom

Entered in the Register on this 19th day of June 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar