

UNITED NATIONS DISPUTE TRIBUNAL

Introduction

1. On 10 October 2016, the Applicant

5. On 5 June 2017, the Applicant filed a motion for interim measures pursuant to art. 10.2 of the Dispute Tribunal's Statute and art. 14 of its Rules of Procedure, requesting:

[...] the Tribunal to suspend action on the proposal to exclude her name as the official responsible for Project Quality Assurance from the recent Project Initiation Document ["PID"] and subsequent PIDs, by removing attribution for her contribution and the orga]

13. On 9 November 2017, the Applicant filed a motion requesting leave to submit additional documentation “relevant to the Applicant’s situation and to address some of the issues surrounding the Tribunal’s Order on interim measures and related matters”. The Applicant states that the documentation “

17. On 29 January 2018, by Order No. 20 (NY/2018), the Tribunal instructed the parties to attend a CMD on 13 February 2018 at the Dispute Tribunal's courtroom in New York. On 12 February 2018, the Registry informed the parties that the CMD was rescheduled to 23 February 2018, due to the unavailability of the Presiding Judge for medical reasons.

18. On 23 February 2018, the Tribunal conducted the scheduled CMD in the court room in New York, at which the Applicant, her Counsel, Mr. George Irving, and the Respondent's Counsel, Ms. Esther Shamash, participated in person.

Consideration

19. At the CMD, the Tribunal requested a case status update and enquired about the current situation. Applicant's Counsel submitted that his client, continues to do tasks related to quality assurance which are not fully recognized in the project and other documents, including her performance appraisals. The Tribunal noted that there is an executable interim measures order in place in this matter, in particular referring to matters regarding noncompliance with the Tribunal's interim measures Order No. 151 (NY/2017) as set out more particularly in paras. 19-21 of Order No. 20 (NY/2018) dated 29 January 2018, as follows:

[19] Firstly, in terms of art. 11 of the Dispute Tribunal's Statute, the judgments and orders of the Dispute Tribunal shall be binding upon the parties, and are executable upon the expiry of the time provided for an appeal before the Appeals Tribunal. Failure to implement the Tribunal's orders may merit contempt proceedings and accountability procedures. The case law regarding the inviolability of the Dispute Tribunal's orders, and accountability measures, is well-established. In *Igunda 2012-UNAT-255* the Appeals Tribunal stated that:

A party is not allowed to refuse the execution of an order issued by the Dispute Tribunal under the pretext that it is unlawful or was rendered in excess of that body's jurisdiction, because it is not for a party to decide about those issues. Proper observance must be given to judicial orders. The absence of compliance may merit contempt procedures.

[20] The Tribunal notes that the Respondent does not address the

21. Noting the observations and concerns expressed at para. 22 of Order No. 20 (NY/2018) as follows;

[22] Secondly, from some of the documentation attached to the Applicant's submission of 22 November 2017, the Tribunal observes with concern that the current situation appears to be having a negative impact within the department, apparently creating an unhealthy if not hostile working environment, and a deterioration of workplace relations. All staff members, including the Applicant (who has served the Organization for some 30 years and is a few years away from retirement), are entitled to work in a safe and harmonious working environment. In light of the above, the Tribunal repeats the observations made in the interim measures order and enjoins and encourages the parties to explore possibilities in the interim, to informally resolve this case including by way of *inter partes* measures, or through the Ombudsman's office.

22. Therefore, in light of the particular circumstances and nature of this case, and to promote workplace harmony, the Tribunal strongly encouraged the parties to make all such endeavors for informal resolution of the case, either through the Office of the Ombudsman or through *inter partes* discussions. The parties confirmed that they had engaged in attempts for informal resolution of the case, and both parties are willing to engage in further *inter partes* discussions. The Tribunal commends both parties for any previous good faith efforts to resolve the case amicably through the Office of the Ombudsman and Mediation Services. Such efforts should be encouraged as amicable resolution of cases saves the valuable resources of staff and the Organization and contributes to the harmonious working relationship between the parties. At the Tribunal's request, the parties agreed to confer and prepare a jointly signed submission indicating whether the parties agree to attempt informal resolution and whether a suspension of proceedings was necessary.

23. Accordingly, without prejudice to the final determination of any motions currently before the Tribunal, any order regarding non-compliance of the interim measures order, and any further outstanding issues, pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

24. By **5:00 p.m. on Friday, 2 March 2018**, the parties shall file a jointly signed submission indicating whether the parties agree to attempt informal resolution, and, if so, whether the parties request a suspension of the proceedings.

(Signed)

Judge Ebrahim-Carstens