



Before: Judge Sean Wallace
Registry: Nairobi
Registrar: Eric Muli, Officer-in-Charge

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR AN EXTENSION OF
TIME TO FILE AN APPLICATION**

Counsel for the Applicant:
Jason Biafore, OSLA

Counsel for the Respondent:
DAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former staff member of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (“MINUSCA”), based at the Ndele Field Office. On 29 September 2023, he filed a motion requesting for an extension of time until 1 November 2023 to file an application by which he plans to challenge his separation from service following a misconduct investigation and disciplinary process.

Facts

2. Following an Office of Internal Oversight Services’ report dated 27 February 2021, the Applicant was informed by memorandum that, if established, his conduct would constitute harassment, sexual harassment and/or abuse of authority as defined in ST/SGB/2019/8 (Addressing discrimination, harassment, including sexual harassment, and abuse of authority), and would constitute a violation of staff regulations 1.2(a), (b), (f), staff rule 1.2(f) and section 3.5(c) of ST/SGB/2019/8.¹

3. On 02 July 2023 the Administration wrote to the Applicant informing him of the “decision to separate him with compensation in lieu of notice and without termination indemnity following investigation into his alleged misconduct and a resulting disciplinary process”.²

Considerations

4. Pursuant to art. 8.3 of the United Nations Dispute Tribunal’s Statute, the Tribunal “may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases.”

5. The Applicant submits that he and the Administration are engaged in advanced

¹ Motion, annex 2, sanction letter.

² Motion, annex 3 to Applicant’s motion for extension - Provisional pro forma application, section VII, page 4, para. 1.

stages of *bona fide* settlement discussions with the objective being to avoid litigation of this matter before the Tribunal; and there was an unavoidable late change of counsel within the Office of Staff Legal Assistance (“OSLA”), whereby the Applicant’s legal representation would be compromised, and the Applicant thereby prejudiced without an extension of time to file.

6. As the parties are engaged in *bona fide* settlement discussions to avoid litigation of this matter before the Tribunal, granting his motion would contribute to a satisfactory resolution of this matter without recourse to litigation.

7. The Tribunal agrees with the Applicant that requiring a complete application at this time could result in “the hardening of positions between the Parties and thereby undermine the *bona fide* efforts at informal resolution, or otherwise prejudice the Applicant’s litigation posture”.

8. The Tribunal find the reasons advanced by the Applicant to be exceptional as required by art. 8.3 of the Statute.

IT IS ORDERED THAT:

9. The motion for an extension of time to file an application until 1 November 2023 is granted.

(Signed)

Judge Sean Wallace

Dated this 3rd day of October 2023

Entered in the Register on this 3rd day of October 2023

(Signed)

Eric Muli, Officer-in-Charge, Nairobi