



## 1. THE APPLICATION

**1.1** Mr. Campos (hereunder the Applicant) has been in the employment of the United Nations (UN) since 1979 with a few breaks. He is now a Senior Interpreter at the P-5 level. On 11 April 2008 he was elected Executive Secretary of the Staff Coordinating Council at the United Nations Office at Geneva until 27 April 2009. Since then the Applicant returned to his normal duties.

**1.2** On 16 May 2008, the Applicant filed a request for suspension of action and a first appeal on 17 July 2008 before the Geneva Joint Appeals Board (JAB) to challenge the decision of the Secretary-General not to nominate him as a representative of the staff on the Internal Justice Council (IJC)<sup>1</sup>. Thereafter, the Applicant filed a second appeal<sup>2</sup> on 11 November 2008 before the Geneva Joint Appeals Board (JAB) to contest all henceforth decisions taken by the IJC as in the Applicant's view the IJC was "*illegally constituted*".

**1.3** With the coming into effect of the new internal justice system on 1 July 2009 both cases were transferred to the United Nations Dispute Tribunal (UNDT) Geneva, pursuant to the Secretary-General's Bulletin on 'Transitional Measures Related to the Introduction of the New System of Administration of Justice'.<sup>3</sup> For this purpose, JAB Case no. 609 was transferred to the UNDT under Case no. UNDT/GVA/2009/6 and JAB Case No. 627 was docketed under Case no. UNDT/GVA/2009/13. Before the first application was heard by the Geneva UNDT, the Applicant, by a letter dated 21 July 2009, objected to the hearing on the ground of a conflict of interest pursuant to Article 27.2 (c) of the Rules of Procedure of the UNDT. The matter was submitted to the President of the UNDT pursuant to Article 28.2 of the Rules of Procedure on 27 July 2009.

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<sup>1</sup> Geneva JAB Case no. 609

<sup>2</sup> JAB Case No. 627

<sup>3</sup> ST/SGB/2009/11. (See also Article 7 of the Statute of the Tribunal).

**1.4**

**1.6** In relation to the above, the Applicant stated,

*“This situation is to say, the least extraordinary. I must protest in the strongest terms against an extravagant proliferation of requests to join addressed to parties totally extraneous to my appeal. My complaint against the Secretary General is about the infringement of fundamental rights of staff. It is not a dispute inter partes concerning ius dispositivum. Furthermore, the request addressed to Mr. Koulov [the Respondent, Chief of Human Resources Management Services at UNOG] to refer to my case against the Secretary General in further correspondence is incomprehensible, considering that Respondent had already exhausted his observations concerning JAB cases No. 609 and No. 627 in November 2008”.*

*“As such, this situation reinforces the appearance of conflict of interest and bias referred to in my letter of 21 July 2009. Consequently, in the interest of justice and the appearance of justice and pursuant to article 28 of the UNDT Rules of Procedure, I reiterate my urgent request for the immediate recusal of all the judges of the Dispute Tribunal (as well as all the judges of the United Nations Appeals Tribunal).”*

**2. COMMENTS FROM JUDGE JEAN-FRANCOIS COUSIN**

**2.1** Judge Cousin of the UNDT Geneva to whom the case was assigned offered the following comments pursuant to Article 28.2 of the UNDT Rules of Procedure, in

- (b) The independence of the Judges is guaranteed by the General Assembly.
- (c) The election of the Judges cannot be questioned by the UNDT as the UNDT is not conferred such a power by the Statute of the UNDT.
- (d) The case of the Applicant was transferred to the UNDT Geneva pursuant to a General Assembly Resolution.
- (e) The recusal of all the UNDT Judges cannot be envisaged since there would be no other Tribunal to determine the Applicant's case and the end result would be a denial of justice.

**2.2** Following the letter of 23 July 2009 from the Applicant, Judge Cousin offered the same comments referred to at paragraph 2.1.<sup>5</sup>

### **3. FINDINGS OF THE TRIBUNAL**

**3.1** The members of the IJC were informed that the cases had been transferred to the UNDT and that they may have an interest to join in as parties in the case, pursuant to Article 11 of the Rules of Procedure. The UNDT Geneva also informed the Respondent that both cases had been transferred to the UNDT and that members of the IJC had been offered the opportunity to join the proceedings. The Applicant contested rather strongly to this fact in his submission dated 23 July 2009. The Tribunal will not enter into the merits of this procedural measure taken by the UNDT Geneva.

The Tribunal takes the view that the information communicated to the members of the IJC cannot be construed as amounting to any impropriety, less

#### 4. CONCLUSION

4.1 The present application which is a mere repetition of the 21 July 2009 application is therefore **rejected**.

Done in Nairobi, this 12<sup>th</sup> day of August 2009



Judge Vinod Boodell, President

