

No.: ND 9/7
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Introduction

1.

9. By order dated 23 October 2009, the Tribunal instructed the two Applicants to provide by 30 October 2009 the information previously requested on 9 October 2009, failing which the cases would be adjudicated by summary judgment. Neither Applicant responded to the Tribunal.

Considerations

10. Since the facts and legal issues are exactly the same in the two cases, the Tribunal decided to dispose of them by a single judgment.

11. According to article 9 of the UNDT rules of procedure (RoP), the Tribunal may determine, on its own initiative, that summary judgment is appropriate. This usually would happen when there is no dispute as to the material facts of the case and judgment is restricted to a matter of law. The question of abandonment of proceedings raised by these two cases is such a matter of law.

12. In the absence of specific provisions in the Tribunal's RoP applicable to abandonment of proceedings, the Tribunal will deal with it under article 36 of the RoP, which provides that all matters that are not expressly provided for in the RoP shall be dealt with by decision of the Tribunal on the particular case, by virtue of the power conferred on it by article 7 of the statute of the UNDT.

13. It is a general principle of procedural law that the right to institute legal proceedings is predicated upon the condition that the person using this right has a legitimate interest in initiating and maintaining legal action. Access to the court has to be denied to those who are not in need of judicial remedy, as well as to those who are obviously no longer interested in the proceedings they instituted.

14. The latter applies to the Applicants. The two of them filed a joint appeal with twelve other former staff members through their counsel on 26 June 2009. After the case was transferred from the JAB to the Dispute Tribunal, it had to be split by order dated 09 October 2009 into 14 individual applications. The Tribunal requested the Applicants to provide essential information in support of their application by letter dated 09 October 2009. As no answer was received within two weeks, the Tribunal reiterated its request by order dated 23 October 2009, while warning the Applicants that failure to comply with the order by 30 October

2009 would lead to the case being adjudicated by summary judgment. Since the Applicants still did not react, it is clear without any reasonable doubt that the Applicants are no longer interested in the outcome of the legal proceedings they instituted, which must therefore be deemed to have been abandoned.

Conclusion

15. In view of the foregoing, the applications are rejected in their entirety.

(Signed)

Judge Thomas Laker

Dated this 3rd day of November 2009

Entered in the Register on this 3rd day of November 2009

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva