Introduction

1. Between 3 April and 24 May 2013, the United Nations Dispute Tribunal received six separate applications from six Security Officers in the Department of Safety and Security in New York, appealing the decision made by the Chief, Safety and Security Services, with the approval of the Office of Human Resources Management, to require them as a condition of future employment to undergo a comparative review exercise. Specifically, the six applications were filed on the following dates and assigned the following case numbers:

a. UNDT/NY/2013/020 (*Yudin*) – filed on 3 April 2013;

b. UNDT/NY/2013/022 (*Adundo*) – filed on 3 April 2013;

c. UNDT/NY/2013/023 (*Lamuraglia*) – filed on 8 April 2013;

d. UNDT/NY/2013/024 (*Adu-Mensah*) – filed on 8 April 2013;

e. UNDT/NY/2013/032 (*Mabande*) – filed on 22 April 2013;

f. UNDT/NY/2013/089 (*Chaclag*) – filed on 23 May 2013.

2. The present Judgment concerns the application filed by Mr. Chaclag (Case No. UNDT/NY/2013/089).

Background

Early case management

3. By five separate Orders issued on 30 May 2013 (Orders No. 135 (NY/2013), No. 136 (NY/2013), No. 138 (NY/2013), 141 (NY/2013), 142 (NY/2013)), the Tribunal N (

fact in each of their cases. No joint submission was ordered in the matter of *Chaclag*. The submissions were duly filed.

4. On 13 October 2013, the Applicant in the matter of *Yudin* filed a motion for an expedited hearing on the merits. He stated that his contract was set to expire on 31 December 2013 as a result of the contested retrenchment process, and, "if the Tribunal does not intervene, [he would face] a likely end to his United Nations career in less than three months". He requested "an expedited hearing in this case as soon [as] practicable and by mid-December 2013".

Order for combined proceedings

5. By Order No. 265 (NY/2013), dated 23 October 2013, the Tribunal directed that the six cases would be subject to an order for combined proceedings and set them down for a hearing on the merits on 3–5 December 2013. The parties were ordered to file, by 6 November 2013, their lists of witnesses and an agreed bundle of documents in preparation for the hearing.

6. The agreed bundle and lists of witnesses were duly filed. The Applicants proposed calling seven witnesses. The Respondent proposed calling four witnesses. Each party indicated the prefe

Case management discussion of 26 November 2013

9. Counsel for the Applicants attended the case management discussion in person. Counsel for the Respondent appeared by telephone.

10. Counsel for the Applicants stated that five of the six Applicants had been placed against regular budget posts. Counsel for the Applicants stated, however, that all of the Applicants, bar one, nevertheless intended to proceed with their claims as they wished to claim pecuniary and non-pecuniary damages.

11. Counsel for the applicants further stated that one of the Applicants wished to withdraw his case. The Tribunal advised Counsel for the Applicants that, in this event, a notice of final and full withdrawal, including on the merits, should be filed by the said Applicant. This would be an appropriate cost saving procedure and would, of course, be without prejudice to the claims of the remaining Applicants.

12. At the conclusion of the case management discussion, the parties were directed to discuss any outstanding matters and agree on dates for a hearing on the merits.

Joint submission of 26 November 2013

13. On 26 November 2013, following the case management discussion, the parties filed a joint submission requesting the hearing to be rescheduled to the latter half of January 2014, preferably any three days in the week of 27–31 January 2014 or, alternatively, 22–24 January 2014. The parties further filed an agreed order of appearance of witnesses.

Hearing on the merits set for 29–31 January 2014

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unnecessary expenditure of the Tribunal's resources. Further, the Tribunal ordered that should any of the Applicants decide not to proceed further with the app

18. Once a matter has been determined, a party should not be able to re-litigate the same issue. An issue, broadly speaking, is a matter of fact or question of law in a dispute between two or more parties which a court is called upon to decide and pronounce itself on in its judgment. Article 2.1 of the Tribunal's Statute states that the Tribunal "shall be competent to hear and pass judgment on an application filed by an individual", as provided for by art. 3.1 of the Statute. Generally, a judgment involves a final determination of the proceedings or of a particular issue in those proceedings. The object of the *res judicata* rule is that "there must be an end to litigation" in order "to ensure the stability of the judicial process" (*Meron* 2012-UNAT-198) and that a litigant should not have to answer the same cause twice. Of course, a determination on a technical or interlocutory matter is not a final disposal of a case, and an order for withdrawal is not always decisive of the issues raised in a case.

19. In regard to the doctrine of *res judicata*, the International Labour Organization Administrative Tribunal ("ILOAT") in Judgment No. 3106 (2012) stated at para. 4:

> The argument that the internal appeal was irreceivable is made by reference to the principle of *res judicata.* In this regard, it is argued that the issues raised in the internal