



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2011-202

Worsley
(Appellant/Respondent on Cross-Appeal)

v.

Secretary-General of the United Nations
(Respondent/Appellant on Cross-Appeal)

JUDGMENT

Before: Judge Inés Weinberg de Roca, Presiding
Judge Sophia Adinyira
Judge Mary Faherty

Judgment No.: 2012-UNAT-199

Date: 16 March 2012

Registrar: Weicheng Lin

Counsel for Appellant/Respondent on Cross-Appeal: Self-Represented

Counsel for Respondent/Appellant on Cross-Appeal: Amy Wood

JUDGE INÉS WEINBERG DE ROCA, Presiding.

Synopsis

1. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of an appeal by Ms. Maureen Worsley against Judgment No. UNDT/2011/024 issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 27 January 2011 in the case of *Worsley v. Secretary-General of the United Nations* .
2. The Appeals Tribunal has previously held “that the services provided by OSLA [the Office of Staff Legal Assistance] and the manner in which the representation is implemented can have an impact on a staff member’s terms of appointment and therefore can fall within the jurisdiction of the UNDT, without interfering with the professional independence of [the] counsel[s]”¹ who practice for OSLA.
3. We affirm the UNDT Judgment that the right of staff members to receive assistance by OSLA does not amount to a right to representation.

Facts and Procedure

4. Ms. Worsley joined the United Nations on 10 July 1994 and is currently serving as a staff member in the Conference Services Department in the United Nations Office at Geneva (UNOG) at the G-4 level.
5. In July 2009, Ms. Worsley contacted OSLA regarding her intent to file grievances against the Organization. In February 2010, after initially having an OSLA Legal Officer

“there are limits to what [they] can do if a client is being consistently uncooperative”. Consequently, the Chief of OSLA informed Ms. Worsley that under the circumstances “OSLA will no longer be able to provide [her] with any legal assistance and representation”.

7. On 16 April 2010, Ms. Worsley submitted a letter to the Management Evaluation Unit (MEU) in which she requested management evaluation as a result of the difficulties she had been experiencing in pursuing a claim against the Organization, including as a result of her relationship with OSLA. On 26 April 2010, the MEU informed Ms. Worsley that her filing was not receivable as it was unclear what administrative decision she was contesting. On 28 May 2010, Ms. Worsley amended her letter and stated that she was contesting OSLA’s refusal to provide her with legal assistance “in filing requests for management evaluation and sorting out the problems [she] had experienced as a U[nited] N[atations] staff member”. On 13 July 2010, the MEU informed Ms. Worsley that they were “unable to find any evidence that OSLA had acted improperly in exercising its discretion” and that “OSLA’s decision to refuse to continue to provide legal assistance to [Ms. Worsley] on the basis that the lawye[(July 2010, the MEU

June 2011, Ms. Worsley submitted an answer to the cross-appeal. On 15 June 2011, Ms. Worsley filed additional comments on the Secretary-General's answer to her appeal al. w 2

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of receivability. Consequently, the Secretary-General submits that his cross-appeal regarding whether OSLA's decision not to represent Ms. Worsley "constitutes an

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Considerations

31. The Appeals Tribunal recalls that it previously held “that the services provided by OSLA and the manner in which the representation is implemented can have an impact on a staff member’s terms of appointment and therefore can fall within the jurisdiction of the UNDT, without interfering with the professional independence of [the] counsel[s]”⁸ that practice for OSLA.⁹

32. The Secretary-General himself contends that Staff Rule 11.4(d) clearly states that staff members have the right to receive legal assistance from OSLA, a right which has to be distinguished from the right to be represented.

33. If staff members have a right to receive legal assistance from OSLA, it logically follows that the implementation of this right can have an impact on the staff members’ terms of appointment and therefore, as stated above, can fall within the jurisdiction of the UNDT and the Appeals Tribunal.

34. In this case, Ms. Worsley appeals the UNDT Judgment because she considers that the UNDT erred by not taking into account how her disabilities may have affected her interaction with her counsel, thereby resulting in a breakdown of their relationship.

35. Article 12 of the Rules of Procedure of the UNDT states:

1. A party may present his or her case to the Dispute Tribunal in person, or may designate counsel from the Office of Staff Legal Assistance or counsel authorized to practice law in a national jurisdiction.

2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

36. The discretionary power of OSLA not to represent a person is not unfettered. However, in the present case there is no evidence that OSLA’s decision was based on Ms. Worsley’s disability. Furthermore, in addition to repeating arguments that the UNDT already thoroughly considered in its Judgment, Ms. Worsley does not show how OSLA’s actions affected either her rights or her case.

⁸ Larkin v. Secretary-General of the United Nations , Judgment No. 2011-UNAT-135.

⁹ Larkin v. Secretary-General of the United Nations , Judgment No. 2011-UNAT-135.

37. We affirm the UNDT Judgment with regard to its decision that the right of staff members to receive assistance from OSLA does not amount to a right to be represented by OSLA.

Judgment

38. The appeal and cross-appeal are dismissed.

