



**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

TURK

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for the Applicant:**

Self-represented

**Counsel for the Respondent:**

AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant is a former P-4 Political Affairs Officer (“POA”) with the United Nations Assistance Mission for Iraq (“UNAMI”).

2. On 17 October 2022, he filed an application with the Dispute Tribunal contesting a decision which he describes as follows:

This is a request of appeal against discriminatory decision on 1 November 2021 of establishing so-called Comparative review Panel to select the staff member with lowest score, which was myself, as the entrenched staff member in light of the Secretary General request to downgrade a P4 position, which also proved to be fake. I was that victim of UNAMI’s leadership personal prejudices and self-motivated interests[.]

3. On 18 October 2022, the Applicant filed documentation to attest to the fact that the comparative review process (“CRP”) was a “malicious chain of events” used by the UNAMI Administration to violate the United Nations Staff Regulations and Rules.

## **Facts**

4. On 28 October 2021, the UNAMI Chief Human Resources Officer (“CHRO”) informed the Applicant that he would be subjected to a CRP and shared the CRP’s terms of reference.<sup>1</sup>

5. On 24 November 2021, the CRP Panel compared the six UNAMI P-4 PAOs, including the Applicant, who served on fixed-term appointments.<sup>2</sup>

6. By letter dated 30 November 2021, the UNAMI Chief of Mission Support informed the Applicant that he had been identified for retrenchment in the CRP and that as a result, his appointment would not be renewed beyond 31 December 2021 in line with staff rule 9.4.<sup>3</sup>

7. On 7 December 2021, the Applicant sought management evaluation of the

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<sup>1</sup> Application, section VII(2) and unnumbered annex to the application.

<sup>2</sup> *Ibid.*, at section VII(3).

<sup>3</sup> *Ibid.*, at section VII(4) and annex 2.

decision not to extend his appointment in which he impugned the establishment of the CRP.<sup>4</sup>

8. By letter dated 28 December 2021, the Management Evaluation Unit (“MEU”) decided to uphold the decision to not renew his appointment with UNAMI beyond 31 December 2021.<sup>5</sup> The MEU found no procedural or any other flaws in the CRP. The Applicant challenged the decision to not extend his appointment in Case No. UNDT/NBI/2022/6, which remains under consideration by the Tribunal.

### **Considerations**

9. There are several reasons why the present application is not receivable: the impugned decision is merely a prefatory act<sup>6</sup>, moreover, as such, is *sub judice* in Case No. UNDT/NBI/2022/6. However, on a purely formal plane, the application has been filed out of time.

10. Article 8(1)(i)(a) of the UNDT Statute stipulates that,

An application shall be receivable if:

...

(i) In cases where a management evaluation of the contested decision is required:

a. Within 90 calendar days of the applicant’s receipt of the response by management to his or her submission ...

11. The management evaluation was, by the Applicant’s own admission,<sup>7</sup> communicated to him on 28 December 2021. The 90-day deadline for filing an application to challenge the contested decision began to run from that date. Accordingly, if the Applicant wished to challenge the contested decision, he should have filed an application by 28 March 2022. He did not do so until 17 October 2022. Applying the above-cited article of the UNDT Statute, the application is, therefore, not receivable.

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<sup>4</sup> *Ibid.*, at annex 3.

<sup>5</sup> *Ibid.*, at annex 4.

<sup>6</sup> 2014-UNAT-481.

<sup>7</sup> Application, section X.

**Conclusion**

12. The application is rejected as not receivable.

*(Signed)*

Judge Agnieszka Klonowiecka-Milart

Dated this 19<sup>th</sup> day of October 2022

Entered in the Register on this 19<sup>th</sup> day of October 2022

*(Signed)*

Kwaky-Berko, Registrar, Nairobi