



Before: Judge Jean-François Cousin

Registry: Geneva

Registrar: René M. Vargas M.

FIDAHIC

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:

Introduction

1. On 10 July 2012, the Applicant, a former staff member of the International Criminal Tribunal for the former Yugoslavia (“ICTY”), filed with the Tribunal a submission entitled “Motion to act to ethnic discrimination at the ICTY led by the ICTY CLSS Management and former ICTY Registrar ...”, which was registered under Case No. UNDT/GVA/2012/058.

2. In the motion, he asks the Tribunal to award him compensation amounting to the net difference in salary and entitlements between the G-5 and the P-2 levels from 2005 until the date of his separation, that is, 31 December 2011.

Facts

3. In 1997, the Applicant, a Bosnian national, joined ICTY as a Language Assistant, at level G-5.

4. In 2005 and 2006, he failed the examination for Bosnian, Croatian and Serbian (“BCS”) to English Translators. However, in 2006 he passed the examinations for English to BCS and for French to BCS Translators. On several occasions thereafter, he unsuccessfully applied for positions of Translator and Interpreter at the P level in ICTY.

5. Being convinced that there was a pattern of discrimination against Bosnians in the Conference and Language Services Section (“CLSS”) of ICTY, in April 2007 he raised his concerns in relation to the CLSS testing and recruitment procedures with the Head of the Recruitment and Training Unit and the Deputy Registrar.

6. On 10 July 2012, the Applicant filed with the Tribunal the motion which forms the subject of the present Judgment.

7. On 11 July 2012, the Registry of the Tribunal acknowledged receipt of the Applicant’s motion and requested him to complete and file the relevant

application form, drawing his particular attention to the sections concerning identification of the contested decision and management evaluation.

8. By email of the same day, the Applicant responded: “I am not contesting a decision: this is discrimination case. Events took place in the span of the last 12 years.” He did not submit the completed form, as requested by the Registry.

Consideration

9. Article 9 of the Tribunal’s Rules of Procedure provides that the Tribunal may determine, on its own initiative, that summary judgment is appropriate.

10. Article 8.1(a) of the Statute of the Tribunal states that “[a]n application shall be receivable if ... [t]he Dispute Tribunal is competent to hear and pass judgment on the application, pursuant to article 2 of the present statute”. According to article 2.1(a), the Tribunal is competent to hear and pass judgment on an application appealing “an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”. It follows that the jurisdiction of the Tribunal is limited to ruling on the lawfulness of administrative decisions. In the instant case, though the Applicant was asked to identify the contested decision, he has failed to do so.

11. Further, the Applicant has not shown that, prior to filing his application with the Tribunal, he had sought management evaluation, as required by article 8.1(c) of the Tribunal’s Statute and staff rule 11.2.

12. In view of the foregoing, the Tribunal can only declare the application irreceivable, without it being necessary to serve it on the Respondent.

Conclusion

13. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

(Signed)

Judge Jean-François Cousin

Dated this 16th day of July 2012

Entered in the Register on this 16th day of July 2012

(Signed)

René M. Vargas M., Registrar, Geneva