



**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

HASSAN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for the Applicant:**  
Charles Kanjama

**Counsel for the Respondent:**  
Louis Lapicerella, UNHCR

## **Introduction**

1. The Applicant is a former staff member of the United Nations High Commissioner for Refugees (“UNHCR”).<sup>1</sup> He separated from the Organization on 31 December 2018.<sup>2</sup>

2. By an application filed on 23 January 2021, he contests his non-selection to the position of Resettlement Associate G-6 in UNHCR.<sup>3</sup> The Applicant applied for this position on 13 September 2019 when he had already separated from the service of the Organization.<sup>4</sup>

## **Considerations**

### *Receivability*

3. The issue arising for consideration is the receivability of the present application. In *Christensen* 2013-UNAT-335, the United Nations Appeals Tribunal (“the Appeals Tribunal”) held that “the UNDT is competent to review its own competence or jurisdiction in accordance with Article 2 (6) of its Statute” when determining the receivability of an application.

4. The Appeals Tribunal further stated “this competence can be exercised even if the parties or the administrative authorities do not raise the issue, because it constitutes a matter of law and the Statute prevents the UNDT from receiving a case which is actually non-receivable”.<sup>5</sup>

5. The Applicant indicates in his application that he is a former staff member of the UNHCR who separated from service in 2018. However, in the present application, he contests a decision purportedly taken in 2020.

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<sup>1</sup> Application, section I.

<sup>2</sup> Ibid.

<sup>3</sup> Application, section VII.

<sup>4</sup> Application, section VII, para.5; Reply, para. 9.

<sup>5</sup> *Christensen* 2013-UNAT-335, para. 21.

6. According to art. 2.1 of its Statute, the Tribunal is competent to hear and pass judgment on an application filed by, *inter alia*, a former staff member as provided for in art. 3.1(b) of the same Statute. However, for an application to be receivable, the former staff member shall “appeal an administrative decision that is alleged to be in non-compliance with [his/her] terms of appointment or [his/her] contract of employment”, such as a decision linked to his separation from service.

7. The Appeals Tribunal confirmed in *Khan*<sup>6</sup> that a former staff member of the Organization has access to the Dispute Tribunal only in respect of an administrative decision affecting the terms of his or her former appointment or contract.

8. In the present case, the Tribunal finds that the application is not receivable *ratione personae* because at the date of filing the present application, the Applicant was not a staff member and the contested decision did not breach the terms of his former appointment or contract of employment.

## **JUDGMENT**

9. The application is dismissed as irreceivable.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 27<sup>th</sup> day of September 2021

Entered in the Register on this 27<sup>th</sup> day of September 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi

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<sup>6</sup> *Khan* 2017-UNAT-727, para. 28.