



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

**Registry:** Geneva

**Registrar:** René M. Vargas M.

KIRIELLA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Elizabeth Gall, UNDP

## **Introduction**

1. On 16 November 2020, the Applicant, a Field Security Associate, GS-5 level, at the United Nations Department of Safety and Security (“UNDSS”), Sri Lanka, filed an application contesting the disciplinary measure of demotion from GS-6 to the GS-5 level with deferment of eligibility for promotion for two years.
2. On 18 December 2020, the Respondent filed his reply arguing that the Applicant’s complaints of harassment against his supervisor, the Security Adviser (“SA”), UNDSS, and his claims regarding the lawfulness of his placement on Administrative Leave With Pay (“ALWP”) are not receivable *ratione materiae* and that the facts relating to the two incidents of misconduct that resulted in the disciplinary measure were established by the evidence contained in both investigation reports issued by the Office of Audit and Investigations (“OAI”) on 9 August 2018 and 19 December 2019.
3. On 10 January 2022, the present case was assigned to the undersigned Judge.

## **Consideration**

4. Arts. 16(1) and 16(2) of the Tribunal’s Rules of Procedure provide that “the Judge hearing a case may hold oral hearings” and that “a hearing should normally be held following an appeal against an administrative decision imposing a disciplinary measure”. Nevertheless, the discretion to hold an oral hearing vests in the Judge (see *He* 2016-UNAT-686 and *Nadeau* 2017-UNAT-733).
5. At the same time, art. 9(1) of the UNDT Statute confers upon it a discretion to order the production of documents or other evidence as it deems necessary, while art. 9(2) provides that the UNDT shall decide whether the Applicant or any other person is required at oral proceedings.
6. Having considered that the disciplinary measure taken against the Applicant was determined after two separate investigations conducted by OAI, during which the Applicant was both interviewed and heard, for the Tribunal to decide whether

an oral hearing is in order or not it is crucial that the parties first identify all the relevant facts and material issues that may require a fact-finding oral hearing.

**Conclusion**

7. In view of the foregoing, it is ORDERED THAT **by Wednesday, 26 January 2022**, the parties shall submit comments on the necessity of an oral hearing, further identifying the material issues of facts which may require a fact-finding hearing by this Tribunal.

*(Signed)*

Judge Alexander W. Hunter. Jr.

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

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

*(Signed)*

René M. Vargas M., Registrar, Geneva