



**Before:** Duty Judge  
**Registry:** Nairobi  
**Registrar:** Wanda L. Carter

EL-MEEHY

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON THE RESPONDENT'S  
MOTION TO HAVE RECEIVABILITY  
DETERMINED AS A PRELIMINARY  
MATTER**

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**Counsel for Applicant:**

Ludovica Moro

**Counsel for Respondent:**

Halil Göksan, AS/ALD/OHR/UN Secretariat  
Tamal Mandal, AS/ALD/OHR/UN Secretariat

## **Introduction**

1. By application filed on 4 September 2024, the Applicant, a P-4 level Economic Affairs Officer at the United Nations Economic and Social Commission for Western Asia (“ESCWA”), contests the 29 February 2024 decision of the Director of Administration, Resource Management and Service Development Division/ESCWA denying her request for “remote work”.
2. The application was served on the Respondent who was instructed to file his reply by 9 October 2024.
3. On 18 September 2024, the Respondent filed a motion requesting the Tribunal to determine receivability as a preliminary matter and suspend the deadline for the reply.

## **Consideration**

4. In support of his motion, the Respondent submits that the application is not receivable because the challenge to the contested decision is time-barred. The Respondent further submits that: the Applicant was first informed of ESCWA’s decision to deny her request for telecommuting on 9 August 2023, that the same decision was reiterated to the Applicant again on 9 November 2023 and on 29 February 2024. Since the Applicant was required to request management evaluation within 60 calendar-days from the date of the first notification, i.e., by 9 October 2023, her request on 19 March 2024 was time barred.
5. Article 19 of the UNDT Rules of Procedure provides that the Tribunal can “issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties”. The Tribunal recalls that

[a]lthough no right to partially respond is granted by the Statute or the Rules of Procedure of the Dispute Tribunal, the Tribunal may decide in certain cases to permit the Respondent to file a reply addressing only the issue of receivability, provided that the Tribunal is satisfied that it would be appropriate for the fair and expeditious disposal of the case and to do justice to the parties (see for example

*Dragnea* Order No. 061 (NY/2022), para. 10, citing to *Di Giacomo* Order No. 335 (NY/2010); *Balakrishnan* Order No. 97 (GVA/2011) and *Mafessanti* Order No. 169 (GVA/2015).

6. Pursuant to jurisprudence of this Tribunal, motions to have receivability considered as a preliminary matter should be granted only when the receivability of the application is a clear-cut issue. (See, e.g., *Balakrishnan* Order No. 97 (GVA/2011 and *Dragnea* Order No. 61 (NY/2022)).

7. The Tribunal considers that the question whether the application is receivable or not is not a clear-cut issue. It is unclear from the existing record whether the decision of 29 February was a new decision or merely a reiteration of a previous decision. Thus, the Tribunal would benefit from further submissions on that issue.

8. This Order is without prejudice to the Tribunal's future determination of the issues of receivability and/or the merits of the Applicant's claims.

IT IS ORDERED THAT

9. The Respondent's motion to have receivability determined as a preliminary matter is rejected.

10. The Respondent shall file his full reply to the application by Wednesday, 9 October 2024.

(Signed)

Judge Sean Wallace

Dated this 20<sup>th</sup> day of September 2024

Entered in the Register on this 20<sup>th</sup> day of September 2024

(Signed)

Wanda L. Carter, Registrar, Nairobi