



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

**Registry:** New York

**Registrar:** Hafida Lahiouel

HAMID

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Nicole Washienko, OSLA

**Counsel for Respondent:**  
H. Esther Shamash, UNDP

## **Introduction**

1. On 11 February 2016, the Applicant, a former D-2 level staff member of the United Nations Development Programme (“UNDP”) in New York, filed an application contesting the following three administrative decisions:

a. to abolish her post of Director and Chief Technology Officer (“CTO”) in UNDP’s Office for Information Systems and Technology (“OIST”) as a result of restructuring and reclassification processes (the “abolishment decision”);

b. to “require her to undergo a competitive process” for the new post of Director and CTO at the D-1 level in the Office of Information Management and Technology (“OIMT”) (the “recruitment decision”); and

c. not to select her for the post of Director and CTO, OIMT (the “selection decision”).

2. The Applicant seeks compensation for pecuniary loss in the amount of two years’ net base salary, as well as compensation for “moral injury” in the amount of 12 months’ net base salary.

3. The Respondent filed his reply on 14 March 2014, submitting that the contested decisions were lawful and that the Applicant’s claims are without merit.

4. This case was assigned to the undersigned Judge on 1 July 2016.

### **Case management**

5. The Tribunal considers it appropriate to order the parties to file a joint submission and to attend a case management discussion in preparation for a hearing on the merits.

6. The joint submission shall include, *inter alia*, agreed and disputed facts and legal issues, as well as proposed date(s) for a hearing on the merits, joint bundles of documents, and lists of witnesses together with brief statements of evidence each party intends to elicit from their respective witnesses.

7. Following the filing of the joint submission, the Tribunal considers it appropriate to hold a case management discussion to address any issues that may still be outstanding at that time.

8. It appears that, at the time of the contested decision, the Applicant held a fixed-term appointment. The Tribunal further notes, in this regard, that further submissions will be required from the parties on the issue of the application of staff rule 9.6(e), particularly in view of the case law of the United Nations Dispute Tribunal (see, e.g., *Shashaa* UNDT/2009/034; *Bye* UNDT/2009/083; *Dumornay* UNDT/2010/004; *Abdalla* UNDT/2010/140; *Tolstopiatov* UNDT/2010/147; *Mistral Al-Kidwa* UNDT/2011/199) and the United Nations Appeals Tribunal (see, e.g., *Dumornay* 2010-UNAT-097; *Abdalla* 2011-UNAT-138).

9. The parties are reminded that they are free to attempt informal resolution of the dispute through the United Nations Ombudsman and Mediation Services or via *inter partes* discussions. Should the parties decide to attempt informal resolution of the matter, they shall promptly inform the Tribunal thereof and seek suspension of the proceedings.

10. Pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure, the Tribunal considers it appropriate and in the interests of a fair disposal of the case to make the following orders.

IT IS ORDERED THAT:

11. By **5:00 p.m., on Tuesday, 19 July 2016**, Counsel are to confer with a view to resolving the matter informally. In the event the parties agree to attempt informal resolution of the matter, they shall file a joint submission asking for a suspension of the proceedings.

12. In the event no informal resolution is possible, by **5:00 p.m., Tuesday, 26 July 2016**, the parties shall file a jointly-signed submission responding under separate headings to each of the following issues. Where there is disagreement over an issue, fact or statement, the submission shall identify the parties' respective positions:

- a. A consolidated list of agreed legal issues (addressing, *inter alia*, the effect of the application of staff rule 9.6(e));
- b. A consolidated list of agreed facts in chronological order (reflecting, *inter alia*, whether the successful candidate for the contested post was a staff member of the Organization at the time of the selection exercise and, if so, the successful candidate's type of appointment (permanent, continuing, fixed-term, or temporary));
- c. A joint proposal as to the date(s) for a hearing on the merits, ensuring availability of their proposed witnesses;
- d. Lists of witnesses that the Applicant and the Respondent intend to call, confirming whether the witnesses will appear in person and providing

their contact information to the Tribunal. The parties shall also include a proposed order of appearance for their witnesses;

e. Brief statements of the evidence each party intends to elicit from their respective witnesses;

f. A consolidated, paginated bundle of legal authority relied upon by the parties in support of their submissions, including relevant case law of the United Nations Dispute and Appeals Tribunals, as well as the full text of the applicable UNDP Programme and Operations Policies and Procedures and any other relevant administrative issuances;

g. An agreed bundle of documents which the parties intend to rely upon at the hearing. The bundle shall contain an index of the documents contained therein, with each page of the bundle clearly paginated for ease of reference.

13. At **11:00 a.m., Thursday, 28 July 2016**, the parties shall attend a case management discussion in preparation for a hearing on the merits.

*(Signed)*

Judge Alexander W. Hunter, Jr.

Dated this 11<sup>th</sup> day of July 2016