

Introduction

1. The Applicant, a staff member of the International Criminal Tribunal for the former Yugoslavia (“ICTY”), contests the failure of the Assistant

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were asked to conduct a review of individual staff members in their department or office and to submit a recommendation to the Assistant Secretary-General for Human Resources Management.

6. By letter dated 17 February 2010, the President of ICTY wrote to the Secretary-General of the United Nations to complain about the position taken by the Under-Secretary-General for Management that ICTY staff were not eligible for conversion because ICTY was an organization with a finite mandate.

7. By letter dated 10 March 2010, the Under-Secretary-General for

11. On 12 July 2010, the Registrar of ICTY transmitted to OHRM a list of 371 eligible staff members, including the Applicant, found suitable for consideration for conversion and thus “jointly recommended by the Acting Chief of Human Resources Section” and the Registrar of ICTY.

12. On 31 August 2010, the Deputy Secretary-General, on behalf of the Secretary-General, approved the recommendations contained in the Report of the SMCC XXXI Session (see paragraph 10 above).

13. By vFKY(“R BkKvHFb,R)BYv(HFH,R.BkKvHF,pbHR BkHKvHp-pR B] T...C-Yv,FMTjC

17. By letter dated 16 February 2011, the Applicant requested management evaluation of the “administrative decision ... taken by the Assistant Secretary-General [for] Human Resources Management ... to (i) forward [his] application to a central review committee (CRC) at UN Headquarters, and, in so doing, (ii) failing to provide priority consideration for the conversion of [his] fixed-term appointment to a permanent appointment. Furthermore, the ASG-OHRM (iii) violated [his] procedural right to notice by not informing [him] in a timely manner of her decision to submit [his] application to a CRC.”

18. On 25 February 2011, the Management Evaluation Unit, UN Secretariat, New York, informed the Applicant that his request

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if any. The Applicant did not file amended pleadings and neither party objected to the case being decided on the papers.

29. By email dated 23 March 2012, the Tribunal requested the Applicant and the newly designated counsel to complete and sign a counsel authorization form, pursuant to articles 8.2(c) and 12 of its Rules of Procedure, and to return it to the Tribunal by 27 March. Although both the Applicant and counsel confirmed receipt of the email on the same day, the duly completed form was not returned within the prescribed time limit.

Parties' submissions

30. The Applicant's principal contentions are:

d. OHRM failed to comply with its obligation to give priority consideration to the Applicant's case for conversion;

conversion as the effective date of conversion would be 30 June 2009. Third, the Applicant does not elaborate which term of appointment or contract has been violated by the length of time required to review his case for conversion;

c. The decision whether the central review bodies at UN Headquarters are the appropriate advisory bodies to review the cases where OHRM and ICTY do not agree on the granting of a permanent appointment is a regulatory decision of general application and is not appealable;

Merits

d. 10 months have transpired between the Applicant's request for conversion of his appointment and his application to the Tribunal. This cannot be characterized as an undue or unreasonable delay, especially given the large scale of the one-time review;

e. The Applicant's claim that he has a right to priority consideration has no legal basis. The SMCC report does not form part of the Organization's regulations, rules, and administrative issuances;

f. His claim of discrimination is unfounded. He was considered for conversion in accordance with the provisions of ST/SGB/2009/10. The review for suitability considered *inter alia* the operational realities of the Organization as mandated by the General Assembly and the objective reality in the Applicant's case is that he is employed with a downsizing entity scheduled for closure by 31 December 2014;

g. The Applicant has been duly notified of the referral of his case to the central review bodies. The timing of the notice did not affect his rights;

h. The Applicant's allegation that the delay in finalizing his case is motivated by an improper purpose is not substantiated by any evidence;

i. The Applicant's claim that the Guidelines contain an additional requirement not present in ST/SGB/2009/10 is moot/purely academic and thus not receivable. The Applicant has not been prejudiced by the alleged additional requirement. Further, this requirement is not an additional one since ST/SGB/2009/10 is clearly limited to staff;

j. As there is no reference to the ICTY duty station in ST/SGB/2009/10, it was within the Respondent's lawful discretion to provide for referral of the Applicant's case to the New York central review bodies.

Consideration

which also concerned the review of the case for conversion to a permanent appointment of an ICTY staff member, the Tribunal held:

23. Even assuming that in fact, in her application, the Applicant intended to contest, as in her request for management evaluation, the decision of her Chief of Section not to recommend her for conversion, such decision is only a preparatory decision which does not affect the scope or extent of the Applicant's rights and which is thus not subject to appeal. As the Tribunal held in Payman UNDT/2011/193,

[t]he one-time review for conversion to permanent appointment involves a series of interlocutory findings which lead to an administrative decision. These findings may be challenged only in the context of an appeal against the outcome of the consideration for conversion to permanent appointment but cannot be, alone, the subject of an appeal to the Tribunal.

24. The challenge of the decision not to recommend the Applicant for conversion is therefore not receivable (see also Ishak UNDT/2010/085,

