
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/005

Judgment No.: UNDT/2020/005

Date: 14 January 2020

Original:

Introduction

1. The Applicant is a Logistics Officer at the P-3/10 level at the United Nations Support Office in Somalia (UNSOS).¹

2. By an application filed on 10 January 2020, she contests what she terms as “misconduct allegations” against her.²

Facts

3. On 21 May 2019, the Head, UNSOS sent a facsimile to the United Nations Under-Secretary-General, Department of Management Strategy, Policy and Compliance (USG/DMSPC). The facsimile contained allegations of possible

only forgot to update her PHP to remove a Bachelor's Degree and put a Diploma. Further, her performance for the last 13 years has been satisfactory.⁵

Considerations

7. As a preliminary matter, the Tribunal notes that it is competent to raise a receivability issue on its own initiative, whether or not it has been raised by the parties (see, for instance, *O'Neill* 2011-UNAT-182, para. 31).

8. It is recalled that article 2(1)(a) of the UNDT Statute is being interpreted consistent with the notion of administrative decision adopted in *Andronov*, which reads:

An administrative decision is a unilateral decision taken by the administration in a precise individual case (individual administrative act), which produces direct legal consequences to the legal order". Thus, the administrative decision is distinguishable from other administrative acts, such as those having regulatory power (which are usually referred to as rules or regulations), as well as from those not having direct legal consequences. Administrative decisions are therefore characterized by the fact that they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences.⁶

9.

Administration is yet to take a decision whether or not to discipline the Applicant. Allegations of misconduct are only a prefatory act, from which no direct consequences stem for the terms of the Applicant's employment.

12. The application is not receivable for want of a reviewable administrative decision.

JUDGMENT

13. The Application is dismissed and not receivable.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 14th day of January 2020

Entered in the Register on this 14th day of January 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi