



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/087

Judgment No.: UNDT/2020/179

Date: 16 October 2020

Original: English

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**Before:** Judge Margaret Tibulya

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

TANIFUM

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for the Applicant:**

**Counsel for the Respondent:**

Lucienne Pierre, AAS/ALD/OHR

Natalie Camila Puchalka, AAS/ALD/OHR

## **Background**

1. The Applicant is a former Acting Chief, Translation and Editorial Section ( ), at the United Nations Office at Nairobi ( UNON ). On 25 June 2019, he filed an application contesting the decision of the Under-Secretary-General for Management Strategy, Policy and Compliance, that had he remained a staff member, a disciplinary measure of at least separation from service with compensation in lieu of notice and without termination indemnity would have been imposed

. The Sanction Letter was placed in the App File.

2. The Respondent replied to the application on 1 August 2019.

3. On 9 October 2020, the Respondent filed a motion requesting the Tribunal to determine receivability as a preliminary matter.

4. The Applicant filed a response to the motion on 13 October 2020.

## **Summary of the relevant facts**

5. The Applicant commenced service with the United Nations International Criminal Tribunal for Rwanda ( UNICTR ) in February 2000 and took early retirement in December 2015. On 14 September 2016, he started on a temporary appointment at the P-5 level as Acting Chief of TES, Department of Conferences Services, UNON.

6. On 27 April 2018, the Investigations Division of the Office of Internal ceived a report of suspected misconduct implicating the Applicant.<sup>1</sup>

7. By memorandum, dated 30 September 2018, Mr. Ben Swanson, Director, ID/OIOS, referred the case to then Office of Human Resources

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<sup>1</sup> Reply, annex 1.

Management ( OHRM ), now the Office of Human Resources ( OHR ), for appropriate action.<sup>2</sup>

8. The Applicant separated from the Organization on 14 September 2018 upon the expiration of his appointment.

9. On 2 November 2018, the Assistant Secretary-General/OHRM informed the Applicant that they were considering pursuing the allegations against him through the disciplinary process and sought his agreement to cooperate in the process.<sup>3</sup>

10. On 23 November 2018, the Applicant agreed to cooperate with the disciplinary process.<sup>4</sup>

11. By memorandum dated 10 January 2019, formal allegations of misconduct were issued to the Applicant.<sup>5</sup>

12. By e-mail dated 26 February 2019, the Applicant submitted his comments on the allegations of misconduct.<sup>6</sup>

13. By letter dated 21 March 2019, the Applicant was informed of the contested decision.<sup>7</sup>

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## **Receivability**

### **The Respondent**

14. The application was filed late in respect of the contested decision. The Applicant received the contested decision on 25 March 2019. The deadline for filing

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<sup>2</sup> Ibid.

<sup>3</sup> Application, annex 2.

<sup>4</sup> Application, annex 3.

<sup>5</sup> Reply, annex 6.

<sup>6</sup> Reply, annex 8.

<sup>7</sup> Application, annex 6.



process. Judicial economy would have best been served by a timely challenge of the receivability of the application.

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entirety and to consider his application as receivable. Alternatively, the Applicant prays the Tribunal to join the receivability to the merits and to decide on it at the end of the trial.

22. The Applicant also seeks leave to remain anonymous, considering the risk of reputation damage that this case would cause to him, personally and professionally, especially if he is connected to an allegation that he did not have the chance to defend himself against fully through a judicial process.

### **Considerations**

23. Article 8.1(d) provides that an application

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