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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/008

Judgment No.: UNDT/2020/182

Date: 22 October 2020

Original: English

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**Before:** Judge Margaret Tibulya

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

TOSON

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for the Applicant:**

Self-represented

**Counsel for the Respondent:**

Katrina Waiters, UNFPA

## Background

1. The Applicant is a staff member of the United Nations Population Fund (UNFPA) in the UNFPA Oman Country Office (UNFPA Oman) and is currently employed at the R-5 level.
2. On 14 February 2019, he filed an application with the United Nations Dispute Tribunal to renew his fixed term contract for a period of 19 March to 19 June 2019.
3. The Respondent filed his reply to the application on 22 March 2019

7. The Applicant again contacted Mr. Shabaneh on 8 November 2018 who informed him that he would consult with DHR and revert.<sup>4</sup>

8. On 10 December 2018, the Applicant sought management evaluation of the contested decision.

9. On 20 February 2019, the Applicant received a new PA granting him a further extension of appointment until 19 March 2020.<sup>5</sup>

10. On 25 May 2020, the Applicant filed submissions on the issue of receivability pursuant to Order No. 093 (NBI/2020).

### **Parties' submissions**

#### **Receivability**

##### *The Respondent*

11. The application is not receivable *ratione materiae*. The contested decision has been superseded and rescinded by effect of the second PA dated 20 February 2019.

12. The Applicant now has a one year renewal of appointment rather than three months. The contested decision has no legal effect on the Applicant's appointment or contract of employment. Accordingly, the Dispute Tribunal does not have jurisdiction to receive the application.

##### *The Applicant*

13. Any decision vitiated by bias, bad faith, retaliatory or abusive of authority is receivable and reviewable by the Tribunal. The Tribunal may examine the circumstances surrounding a decision to determine whether it was tainted by abuse of authority.

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<sup>4</sup> Application, annex 10.

<sup>5</sup> Reply, annex 1.

14. What constitutes an administrative decision will depend on the nature of the decision, the legal framework under which the decision was made and the consequences of the decision.

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