



**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

TURK

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:**

Nicole Wynn, AAS/ALD/OHR, UN Secretariat

Fatuma Mninde-Silungwe, AAS/ALD/OHR, UN Secretariat

## **Background**

1. The Applicant was a P-4 Political Affairs Officer (“POA”) with the United Nations Assistance Mission for Iraq (“UNAMI”).
2. On 7 January 2022, he filed an application with the Dispute Tribunal contesting the decision to not renew his fixed-term appointment (“FTA”) beyond its expiration date of 31 December 2021 (“the impugned decision”), in challenging the process whereby, at the Mission’s requests, one post was classified downward by the General Assembly and he was identified for retrenchment. That case was registered as Case No. UNDT/NBI/2022/006. There were a few addenda to that application as to arguments and evidence.
3. On 3 March 2022 the Applicant filed the present application, registered as Case No. UNDT/NBI/2022/025, in which he challenges what he describes as the non-renewal of his FTA in violation of ST/AI/1998/9 (System for the classification of posts).
4. On 12 April 2022, the Applicant filed a motion requesting the Tribunal to merge Case No. UNDT/NBI/2022/006 with this case on the ground that he had created the present case in error:

This is a kind request from the UNDT to merge the (sic) my pending cases UNDT/NBI/2022/25 (TURK) with UNDT/NBI/2022/06 (TURK) as on the day of submission what is listed as a separate case was actually a technical issue as my intention was adding this important document as it represents one of the important pillars of evidence about the unlawfulness of UNAMI’s decisions which ended up in separating from my seven years’ service in the UN. Indeed, The request made primarily to save the time, efforts and resources of the esteemed UN Dispute Tribunal.

5. The Respondent makes several points regarding receivability of the application, the relevant one being that the two applications contest the same non-renewal decision dated 2 December 2021. The instant application merely makes an additional argument as to why the decision not to renew the appointment was unlawful. The Applicant also seeks the same remedy of rescission and

reinstatement in both cases.

### **Considerations**

6. The two applications concern the same subject-matter and the same cause of action between the same parties. There is in substance one administrative decision refusing to renew a fixed-term appointment and the first application was *lis pendens* when the second application was made. The Applicant acknowledged the same in his motion to merge cases and orally during a case management discussion held on 6 July 2022. The Tribunal holds that there is no case for merger; rather, the present application is not receivable under the doctrine of *lis pendens*.<sup>1</sup>

### **JUDGMENT**

7. The application in case UNDT/NBI/2022/025 is dismissed as not receivable. The Applicant's grievances are being considered in Case No. UNDT/NBI/2022/006.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 18<sup>th</sup> day of July 2022

Entered in the Register on this 18<sup>th</sup> day of July 2022

(Signed)

Kwaky-Berko, Registrar, Nairobi

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<sup>1</sup> *Colati* 2020-UNAT-980 para. 41.