



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

CHERNEVA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**SUMMARY JUDGMENT
ON RECEIVABILITY**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

LPAS, UNOG

Introduction

1. By application filed on 16 January 2021, the Applicant contests her non-selection as “UN Special Rapporteur [for] [F]reedom of [O]pinion and [E]xpression in 2020”.
2. The application was registered under Case No. UNDT/GVA/2021/007 and assigned to the undersigned Judge.

Consideration

Receivability

3. The examination of an application’s receivability is a matter of law, which may be adjudicated without serving the application on the Respondent for a reply and even if not raised by the parties (see *Christensen* 2013-UNAT-335). Accordingly, the Tribunal deems it appropriate, on its own initiative and in accordance with art. 9 of its Rules of Procedure, to decide on the present application by way of summary judgment, which has been accepted as an appropriate means to deal with issues of receivability (see *Chahrour* 2014-UNAT-406, *Gehr* 2013-UNAT-313, *Cherneva* UNDT/2018/081 and *Cherneva* UNDT/2020/074).
4. The Applicant indicates in her application that she is a former staff member of the United Nations who was last separated from service in 2018. However, in her present application, she contests her non-selection as “UN Special Rapporteur [for] [F]reedom of [O]pinion and [E]xpression in 2020”.
5. According to art. 2.1 of its Statute, the Tribunal is competent to hear and pass judgment on an application filed by, *inter alia*, a former staff member as provided for in art. 3.1(b) of the same Statute. However, for an application to be receivable, the former staff member shall “appeal an administrative decision that is alleged to be in non-compliance with [his/her] terms of appointment or [his/her] contract of employment”, such as a decision linked to her separation from service.
6. The Appeals Tribunal confirmed in *Khan* 2017-UNAT-727, para. 28 citing *Ghahremani* 2011-UNAT-171, that a former staff member of the Organization has

access to the Dispute Tribunal only in respect of an administrative decision affecting the terms of his or her former appointment or contract.

7. In the present case, the Tribunal finds that the application is not receivable *ratione personae* because at the date of the filing of the present application the Applicant was not a staff member and the contested decision has no bearing on the Applicant's status as a former staff member or otherwise breached the terms of her former appointment or contract of employment.

8. Furthermore, the Tribunal observes that the Applicant filed her request for management evaluation on 16 January 2021, that is on the same day on which she filed her application on the merits. However, according to art. 8.1(d)(i)(b) of its Statute, the Tribunal is competent to hear an application that is filed within 90 calendar days of the expiry of the relevant response period for the management evaluation, which in the present case is still ongoing.

9. Having filed the application on the same day as the request for management evaluation, the Tribunal is not competent to hear it (cf. *Cherneva* Order No. 83 (GVA/2018 and *Cherneva* UNDT/2018/059) and the application is also not receivable on this ground.

Conclusion

10. In view of the foregoing, the Tribunal DECIDES:

To reject the application as irreceivable.

(Signed)

Judge Teresa Bravo

Dated this 26th day of January 2021

Entered in the Register on this 26th day of January 2021

(Signed)

René M. Vargas M., Registrar, Geneva