

*Translated from French*

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**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Case No. 2010-063

**Ms. Kovacevic**

**(Appellant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**JUDGMENT**

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Before: Judge Jean Courtial, Presiding  
Judge Sophia Adinyira  
Judge Luis María Simón

Judgment No.: 2010-UNAT-071

Date: 29 October 2010

Registrar: Weicheng Lin

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Counsel for Appellant: Self-represented

Counsel for Respondent: John Stompor

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Judgment No. 2010-UNAT-071

**Judge Jean Courtial**, Presiding

**Synopsis**

1. Ms. Biljana Kovacevic appealed to the United Nations Dispute Tribunal against the administrative decision to terminate her appointment as part of the drawdown plan of the United Nations Interim Administration Mission in Kosovo (UNMIK). She filed an appeal against the judgment by which the Dispute Tribunal

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7. On 12 February 2010, Ms. Kovacevic filed an appeal against the judgment handed down by the Dispute Tribunal. Even though her appeal referred to her four former colleagues whose appointments had been terminated in the same circumstances, only Ms. Kovacevic had signed the appeal form and only her name appeared at the bottom of the brief. However, the appeal did not fulfil the formal requirements set out in article 8 of the Appeals Tribunal's rules of procedure. After consulting with the Registry on several occasions, Ms. Kovacevic submitted an appeal that complied with said requirements on 27 April 2010. It was transmitted that same day to the counsel for the Secretary-General of the United Nations, who submitted a respondent's brief on 11 June 2010.

**Submissions****Ms. Kovacevic's Appeal**

8. Ms. Kovacevic contends that UNMIK disregarded the United Nations Staff Rules and standard policy regarding the downsizing of a liquidating mission. In such cases, the order in which local staff are let go is determined on the basis of a selection process according to which those whose competencies are best suited to the posts are retained. UNMIK failed to take into consideration either the proposal submitted in February 2009 by the senior staff of the United Nations Office in Belgrade or its own policy on mission drawdown. When Ms. Kovacevic contacted mediation services in May 2009, she was informed that the "geographical factor" had been the sole criterion applied. In fact, UNMIK should have taken into account Ms. Kovacevic's seniority as well as her "efficiency, [her] competence and [her] integrity", pursuant to article 101, paragraph 3, of the Human Resources Handbook (document ST/SGB/2008/4), 1 January 2008 — Provisions relating to service of the staff.\*

9. Ms. Kovacevic contests the application of the "geographical factor", which dictates that, where two candidates have equal qualifications, preference is given to the candidate residing in the mission area. In the present case, its application had produced the opposite result: the United Nations Office in Belgrade had retained local staff who were originally from Kosovo and had been transferred to Belgrade, and had terminated the appointments of those staff members originally from Serbia.

10. Ms. Kovacevic requests payment equivalent to six months' net base salary as compensation for the "mistreatment" she claims she suffered at the hands of UNMIK when her fixed-term appointment was terminated.

**Secretary-General's Answer**

11. The Secretary-General states that the arguments put forward by Ms. Kovacevic in her appeal are not founded on any of the five grounds for appeal set out in article 2, paragraph 1, of the statute of the Appeals Tribunal. Whereas the Dispute Tribunal's judgment addressed only the issue of receivability, Ms. Kovacevic's appeal largely reiterates the arguments on the merits that she brought before the Dispute Tribunal and does not criticize the reasons for the rejection of her application.

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\* *Translator's Note:* The article referred to here is in fact Article 101, paragraph 3, of the Charter of the United Nations and the document symbol refers to the Staff Regulations.

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12. The Secretary-General maintains that the Dispute Tribunal correctly determined that Ms. Kovacevic's application was not receivable, as she did not comply with the requirement to submit a request for administra

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‘exceptional circumstance’”. In that connection, the factors asserted by Ms. Kovacevic in her appeal are not exceptional circumstances. Firstly, engaging in e-mail correspondence with mediation services about the termination of her fixed-term appointment was a strategic choice by the appellant in dealing with her dispute with the Organization. Such correspondence did not prevent her from filing a request for administrative review. Secondly, the changes in the system of administration of justice within the United Nations in 2009 took place after the time by which the appellant was required to have filed her request for administrative review. They in no way prevented her from submitting a timely request.

16. The Secretary-General requests the Tribunal to dismiss the Appeal in its entirety.

**Considerations**

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**Judgment**

22. Ms. Kovacevic's appeal is dismissed.

Dated this 29th day of October 2010 in New York, United States.

Original: French

*(Signed)* Judge Courtial  
Presiding

*(Signed)* Judge Adinyira

*(Signed)* Judge Simón

Entered in the Register on this 29th day of December 2010  
in New York, United States.

*(Signed)* Weicheng Lin, Registrar

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