



## Introduction

1. The Applicant is a former staff member of the United Nations Development Programme (UNDP). She filed the current application with the Registry of the United Nations Dispute Tribunal (the Tribunal) in Nairobi to contest:
  - a. The “sudden verbal decision to relocate her post from Amman, Jordan, to Baghdad, Iraq, without any notice and the subsequent relocation of her post in Amman; and
  - b. The rejection of her request by the Country Office to postpone her entry on duty (EOD) date for a post in Baghdad to the end of March 2011.
2. The Applicant is seeking financial compensation from

## Hearing

7. The United Nations Appeals Tribunal (UNAT) has previously ruled that<sup>1</sup>

[T]he UNDT has broad discretion in all matters relating to case handling and that in order to ensure that the case is fairly and expeditiously adjudicated and that justice is served, the Appeals Tribunal should not intervene hastily in the exercise of the jurisdictional power conferred on the Tribunal of first instance

8. Pursuant to article 16 of the Tribunal's Rules of Procedure, the judge hearing a case may hold oral hearings. Normally, the Tribunal will not hold an oral hearing for a non-disciplinary case in which the written submissions are sufficient for rendering an informed decision.

9. After a careful review of the record, this Tribunal concluded that the issues for decision were clearly defined in the parties' submissions and that the documentary evidence provided adequately addressed the issues raised.

10. Consequently, although the Applicant requested an oral hearing, the Tribunal has determined that an oral hearing is not required and will rely on the Parties' pleadings, written submissions and the documentary evidence.

## Facts

11. The Applicant joined the UNDP Country Office in Iraq (UNDP Iraq) on 21 December 2000 on a fixed term appointment (FTA). In January 2003, he was appointed as a Human Resources Associate with UNDP Iraq at the UN level. After the bombing of the United Nations Headquarters in Baghdad, Iraq, in 2003, the Applicant and other UNDP Iraq staff members were evacuated in December 2003 to Amman, Jordan.

---

<sup>1</sup> *Hersh* 2012-UNAT-243. See also *Bertucci* 2010-UNAT-062 and *Calvani* 2012-UNAT-257.

12. On 1 January 2004, she was appointed as an Operations Associate with UNDP Iraq at the GS7, step 2 level.

13. By a letter dated 31 October 2005, the Country Director, UNDP Iraq, informed the Applicant that since UNDP was not in a position to return to its office in Iraq in the near future, there was no longer an Iraq duty station for the Country Office. Thus UNDP management had decided that the new duty station for UNDP Iraq would be Jordan. He further informed her that as a result all the local posts in Iraq, including hers, would be abolished as of 31 January 2006 and would be replaced as of 1 February 2006 by the same local posts at the new duty station, under the Jordan local conditions.

14. The Applicant was then offered the same position in Jordan that she had held in Iraq, as a local staff member of the Iraq duty station. She accepted the offer and effective 1 February 2006 she held the position of Operations Associate at the GS7 level with UNDP Iraq in Amman.

15. By an email dated 5 March 2009, the then Resident Representative provided a synthesis of the key issues discussed in the UNDP 2009 Retreat to all UNDP Iraq staff members. He informed the staff that the United Nations system was on a "gradual but sure path back to Iraq" and that all efforts were being made to increase



on 9 June 2010 and 15 July 2010 that her applications for these positions were not successful.

22. By a letter dated 8 August 2010 addressed to the Director of the UNDP Office of Human Resources, Bureau of Management (OHR/BOM), the Applicant requested management evaluation of the decision to abolish and transfer her post from Amman to Baghdad. She received communication from the Chief of the Bureau of Management Directorate that a reply to her request would be sent to her by 22 September 2010.

23. In a response dated 25 August 2010, the Office Charge (OIC) OHR/BOM,

27. On the same day, the Deputy Director/OHR informed the Applicant that the United Nations Department of Safety and Security (UNDSS) had authorized the

## Issues

32. The only issue before the Tribunal in this case is the lawfulness of the Respondent's decision to abolish the Applicant's post in Amman, Jordan, and to create a new post at the same level in Baghdad, Iraq.

## Parties' submissions

### *Applicant's submissions*

33. The Applicant submits that the decision to abolish her post in Amman and create another one in Baghdad was sudden, made without consultation or prior notice to her and lacked transparency.

34. The decision was conveyed to her verbally by an HR specialist and her immediate supervisor

35. The Respondent did not abolish her post in Amman

### *Respondent's submissions*

36. The Respondent submits that the Applicant had ample notice of UNDP Iraq's strategy to gradually move back to Iraq from Jordan and of the fact that her post with UNDP Iraq in Amman would be abolished and relocated to Baghdad. In this respect, the Respondent refers to staff meetings and email communications from UNDP Iraq senior managers to UNDP Iraq staff between March 2009 and March 2010 explaining the relocation process.

37. With regards to the Applicant's allegation that there was no subsequent abolition of her post, the Respondent submits that her post was abolished and relocated to Iraq. The Applicant subsequently declined the offer that was made to her to take up the newly created post in Iraq.

38. The decision to abolish the Applicant's post in Amman and create a new one in Baghdad was fully in line with the UNDP Interim Country Strategy for 2009-2010,

the Secretary

on the EOD date but she chose to walk away from the consultations by declining the offer outright on 16 November 2010.

42. In light of the foregoing, the Tribunal therefore concludes that the abolition of the Applicant's post in Jordan was part of a genuine organizational restructuring and that there is no indication that the Administration did not act fairly, justly and transparently in dealing with its staff members when they had to move to Jordan and back to Baghdad subsequently.

43. The Tribunal finds also





## Introduction

1. The Applicant is a former staff member of the United Nations Development Programme (UNDP). She filed the current application with the Registry of the United Nations Dispute Tribunal (the Tribunal) in Nairobi to contest:
  - a. The “sudden verbal decision to relocate her post from Amman, Jordan, to Baghdad, Iraq, without any notice and the subsequent relocation of her post in Amman; and
  - b. The rejection of her request by the Country Office to postpone her entry on duty (EOD) date for a post in Baghdad to the end of March 2011.
2. The Applicant is seeking financial compensation from

## Hearing

7. The United Nations Appeals Tribunal (UNAT) has previously ruled that<sup>1</sup>

[T]he UNDT has broad discretion in all matters relating to case handling and that in order to ensure that the case is fairly and expeditiously adjudicated and that justice is served, the Appeals Tribunal should not intervene hastily in the exercise of the jurisdictional power conferred on the Tribunal of first instance

8. Pursuant to article 16 of the Tribunal's Rules of Procedure, the judge hearing a case may hold oral hearings. Normally, the Tribunal will not hold an oral hearing for a non-disciplinary case in which the written submissions are sufficient for rendering an informed decision.

9. After a careful review of the record, this Tribunal concluded that the issues for decision were clearly defined in the parties' submissions and that the documentary evidence provided adequately addressed the issues raised.

10. Consequently, although the Applicant requested an oral hearing, the Tribunal has determined that an oral hearing is not required and will rely on the Parties' pleadings, written submissions and the documentary evidence.

## Facts

11. The Applicant joined the UNDP Country Office in Iraq (UNDP Iraq) on 21 December 2000 on a fixed term appointment (FTA). In January 2003, he was appointed as a Human Resources Associate with UNDP Iraq at the UN level. After the bombing of the United Nations Headquarters in Baghdad, Iraq, in 2003, the Applicant and other UNDP Iraq staff members were evacuated in December 2003 to Amman, Jordan.

---

<sup>1</sup> *Hersh* 2012-UNAT-243. See also *Bertucci* 2010-UNAT-062 and *Calvani* 2012-UNAT-257.

12. On 1 January 2004, she was appointed as an Operations Associate with UNDP Iraq at the GS7, step 2 level.

13. By a letter dated 31 October 2005, the Country Director, UNDP Iraq, informed the Applicant that since UNDP was not in a position to return to its office in Iraq in the near future, there was no longer an Iraq duty station for the Country Office. Thus UNDP management had decided that the new duty station for UNDP Iraq would be Jordan. He further informed her that as a result all the local posts in Iraq, including hers, would be abolished as of 31 January 2006 and would be replaced as of 1 February 2006 by the same local posts at the new duty station, under the Jordan local conditions.

14. The Applicant was then offered the same position in Jordan that she had held in Iraq, as a local staff member of the Iraq duty station. She accepted the offer and effective 1 February 2006 she held the position of Operations Associate at the GS7 level with UNDP Iraq in Amman.

15. By an email dated 5 March 2009, the then Resident Representative provided a synthesis of the key issues discussed in the UNDP 2009 Retreat to all UNDP Iraq staff members. He informed the staff that the United Nations system was on a "gradual but sure path back to Iraq" and that all efforts were being made to increase



on 9 June 2010 and 15 July 2010 that her applications for these positions were not successful.

22. By a letter dated 8 August 2010 addressed to the Director of the UNDP Office of Human Resources, Bureau of Management (OHR/BOM), the Applicant requested management evaluation of the decision to abolish and transfer her post from Amman to Baghdad. She received communication from the Chief of the Bureau of Management Directorate that a reply to her request would be sent to her by 22 September 2010.

23. In a response dated 25 August 2010, the Office Charge (OIC), OHR/BOM,

27. On the same day, the Deputy Director/OHR informed the Applicant that the United Nations Department of Safety and Security (UNDSS) had authorized the

## Issues

32. The only issue before the Tribunal in this case is the lawfulness of the Respondent's decision to abolish the Applicant's post in Amman, Jordan, and to create a new post at the same level in Baghdad, Iraq.

## Parties' submissions

### *Applicant's submissions*

33. The Applicant submits that the decision to abolish her post in Amman and create another one in Baghdad was sudden, made without consultation or prior notice to her and lacked transparency.

34. The decision was conveyed to her verbally by an HR specialist and her immediate supervisor

35. The Respondent did not abolish her post in Amman

### *Respondent's submissions*

36. The Respondent submits that the Applicant had ample notice of UNDP Iraq's strategy to gradually move back to Iraq from Jordan and of the fact that her post with UNDP Iraq in Amman would be abolished and relocated to Baghdad. In this respect, the Respondent refers to staff meetings and email communications from UNDP Iraq senior managers to UNDP Iraq staff between March 2009 and March 2010 explaining the relocation process.

37. With regards to the Applicant's allegation that there was no subsequent abolition of her post, the Respondent submits that her post was abolished and relocated to Iraq. The Applicant subsequently declined the offer that was made to her to take up the newly created post in Iraq.

38. The decision to abolish the Applicant's post in Amman and create a new one in Baghdad was fully in line with the UNDP Interim Country Strategy for 2009-2010,

the Secretary

on the EOD date but she chose to walk away from the consultations by declining the offer outright on 16 November 2010.

42. In light of the foregoing, the Tribunal therefore concludes that the abolition of the Applicant's post in Jordan was part of a genuine organizational restructuring and that there is no indication that the Administration did not act fairly, justly and transparently in dealing with its staff members when they had to move to Jordan and back to Baghdad subsequently.

43. The Tribunal finds also

