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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/001

Judgment No.: UNDT/2018/008

Date: 22 January 2018

Original: English

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**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

RISASI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for**

## **Introduction**

1. The Applicant is a former staff member of the Office for the Coordination of Humanitarian Affairs (OCHA) in the Democratic Republic of the Congo (DRC).
2. On 2 January 2018, he filed an application contesting the decision not to pay him termination indemnities.

## **Facts**

3. On 25 April 2005, the Applicant joined OCHA in DRC as a Driver at the G-2 level, on a fixed-term appointment administered by the United Nations Development Programme (UNDP).

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where the Head of Office, OCHA, DRC discussed an upcoming restructuring of OCHA, DRC.

5. By letter dated 27 January 2017, the Deputy Country Director-Operations, UNDP Country Office DRC informed the Applicant that his post had not been retained in the new OCHA DRC staffing structure. The Applicant was therefore to a maximum of two vacancies.<sup>1</sup>

6. By letter dated 30 March 2017, the Deputy Country Director-Operations, UNDP Country Office DRC informed the Applicant that he had not been successful in the competitive process that took place in the framework of the OCHA DRC reduction of positions. He was also informed that his fixed-term appointment,



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applied to the Applicant considering that his post was abolished as a consequence  
  
be granted even in cases of non-renewal of contract of eligible long serving fixed-term 100-series s

16. During a meeting that took place in March 2017 with all staff to discuss the restructuring exercise, the Organization gave reasonable assurances to the staff affected by this exercise concerning the payment of termination indemnities which were due to be calculated in accordance with their seniority. An agreement was also signed between OCHA and UNDP in relation to the agreed separation arrangements to minimize the negative impact on the staff members affected by the restructuring exercise. The Organization, however, failed to apply its own policies.

17.

failed to inform him of agreed separation arrangements



24. The Tribunal also recalls the established jurisprudence of the Appeals Tribunal,

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Entered in the Register on this 22<sup>nd</sup> day of January 2018

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi