



## **Introduction**

1. The present case was initially assigned to Judge Alessandra Greceanu.
2. After having first been granted an extension of time to file the application, the Applicant, a Chief of the Directorate in the Bureau for Management Service at the United Nations Development Programme (“BMS/UNDP”), filed the application on 31 October 2018. She contests the alleged “[c]onstructive dismissal, harassment and abuse of authority” by the Assistant Secretary-General of BMS/UNDP (“the ASG”), which she defines as the decision “to divest her of her core functions as Chief of the Directorate”.
3. As remedies, the Applicant requests that “the Administration[’s] decision to divest her of her functions as Chief of Directorate be rescinded/declared unlawful” and that she be “granted compensatory moral, punitive and exemplary damages”.
4. On 6 December 2018, the Respondent filed his reply in which he contends that the application is not receivable and, in any event, without merit.
5. Following the expiry of Judge Greceanu’s tenure on 31 December 2018, the case was reassigned to the undersigned Judge on 20 February 2020.

## **Consideration**

### *Scope of the judicial review of the present case*

6. The Appeals Tribunal has consistently held that the Dispute Tribunal’s judicial review is limited and often refers to its seminal judgment in *Sanwidi* 2010-UNAT-084 (para. 42) in which it defined the scope of review as that “the role of the Dispute Tribunal is to determine if the administrative decision under challenge is reasonable and fair, legally and procedurally correct, and proportionate”. The



parties appear to agree that the Applicant, at least at the relevant time, continued to occupy the relevant post.

10. In light thereof, it appears to the Tribunal that the basic issues of the case can be defined as follows:

- a. Whether the cumulation of certain decisions regarding the Applicant amounted to an unlawful divestiture of her core functions as Chief of the Directorate?
- b. If so, as remedies, is the Applicant entitled to any or all of these decisions to be rescinded and/or compensation according to art. 10.5 of the



jurisdiction, such a matter can be appealed to the Dispute Tribunal in accordance with art. 2.1(a) of its Statute in the given context.

14. In the present case, the basic claim of the Applicant is that by various decisions of the ASG, she was unlawfully divested of the core functions of her position, which include, among other decisions, the decision to exclude her attendance from

by the Applicant, which the Respondent actually agrees or disagrees on—nowhere in the reply does he “explicitly express” that he accepts any of the facts presented by the Applicant, even though many of these facts are repeated or directly corroborated by written evidence, whose veracity, however, the Respondent does not contest.

19. The Tribunal will therefore order the parties to compile a consolidated list of agreed facts and a consolidated list of disputed facts to be able to comprehend what the factual allegations actually are.

20. Subsequently, as the Tribunal observes that neither party requests production of any further evidence and the Tribunal finds that the case is appropriately briefed, it will proceed directly to the closing state of the case. The Tribunal will, consequently, allow the parties to file their final submissions, which shall be solely based on the submissions and evidence already on file. The Tribunal will thereafter determine the case on the papers before it.

21. In light of the above, for the fair and expeditious disposal of the case and to do justice to the parties in accordance with art. 19 of the Rules of Procedure of the Dispute Tribunal,

IT IS ORDERED THAT:

22. On a preliminary basis and without prejudice to any substantive findings made in the final determination of the merits of the present case, the Respondent’s claim on receivability is rejected;

23. By **4:00 p.m. on Monday, 13 April 2020**, the parties are to file a jointly-signed statement providing, under separate headings, the following information:

a.

b. A consolidated list of disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary and/or oral evidence is relied upon to support a disputed fact, clear reference is to be made to