

Translated from French

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

Ms. Samardzic

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT

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

Judgment No.: 2010-UNAT-072

Date: 29 October 2010

Registrar: Weicheng Lin

Counsel for Appellant: Self-represented

Counsel for Respondent: Cristián Gimenez Corte

7. On 12 February 2010, Ms. Samardzic 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. Samardzic had signed the appeal form and only her name appeared requirements set out in article 8 of the Appeals Tribunal's rules of procedure. After consulting [redacted] appeal that complied with said requirements that same day to the counsel for the Secretary-General of the United Nations, who submitted a respondent's brief on 14 June 2010.

Submissions

Ms. Samardzic's Appeal

8. Ms. Samardzic contends that UNMIK disregarded the United Nations Staff Rules [and such cases, the order in which local staff are let go is determined on the basis of a selection 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. Samardzic 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. Samardzic'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 — Pro2(o)-6(r)1(f)-6(r)-4. nI

exceptional circumstance”. In that connection, the factors asserted by Ms. Samardzic 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

17. Article 2, paragraph 1, of the statute of this Tribunal provides that:

The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has: (a) Exceeded its jurisdiction or competence; (b) Failed to exercise jurisdiction vested in it; (c) Erred on a question of law; (d) Committed an error in procedure, such as to affect the decision of the case; or (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

18. These provisions are supplemented by article 8, paragraph 2, of the rules of procedure, which provides that:

The appeal form shall be accompanied by: (a) A brief that explains the legal basis of any of the five grounds for appeal set out in article 2.1 of the statute of the Appeals Tribunal that is relied upon [...].

19. It follows from the above provisions that a party appealing a judgment of the United Nations Dispute Tribunal is unlikely to succeed in having the judgment re Tw T*[(T(pon)-ITw 1g the/P MCIDtn7.coprovaat explains)-7T*7a procedure, which p-rCnlikely to succeed

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22. Ms. Samardzic's appeal is dismissed.

(Signed) Judge Courtial,
Presiding

(Signed) Judge Adinyira

(Signed) Judge Simón

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

Original: French

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

(Signed) Weicheng Lin, Registrar
