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he should raise the issues relating to his actions with the Kenyan police with them. She advised that the DG could not comment on the involvement of United Nations bosses of which she knew nothing but that his concerns were taken seriously and she awaited the outcome of the fact-finding panel.

12. On 14 July 2014, the MEU received a request from the Applicant dated 13 July 2014 for management evaluation of the failure by the Chief of SIOC to conduct any credible investigations after the DG referred his report of the assassination attempt to him. The MEU acknowledged receipt of the request on 17 July 2014.

13. On 23 July 2014, the Chief of SIOC wrote to the Applicant asking to see him for an interview on his statement. The Applicant replied that he had sought a management evaluation and was waiting to hear from them. The Chief of SIOC replied asking him to confirm his availability for an interview on 29 July.

14. The Applicant replied that he had requested management evaluation on [the Chief's] handling of the [assassination] report referred to him almost a year ago. He said "I have queried your failure to investigate the report within a reasonable time with the Management Evaluation and I am eagerly waiting to hear from them. An 11 month delay cannot in any way be considered "reasonable time".

15. The Chief of SIOC's report was concluded on 29 July 2014 and sent to the Chief of Security and the DG. His conclusion was that the incident reported by the Applicant did not change the broader threat and risk picture for the Nairobi in the immediate vicinity of UNON and the current risk assessment.

16. In the absence of any further response from MEU to his request r2(s)5(t 317(17(pQ1 Tf 0

f. The Applicant's claims are not receivable, as they do not concern an administrative decision within the meaning of article 2.1(a) of the Dispute Tribunal's Statute. An SIOC assessment does not have any direct legal consequence on the Applicant's terms of appointment. The advice

potential to affect the Applicant's substantive rights to protection from intimidation and retaliation.

g. While the Respondent argues that the Applicant does not have a right to an investigation by SIOC, the administration purports to conduct an investigation but only after the request for management evaluation.

h. The Respondent's submission that an SIOC risk assessment does not have any direct legal consequence is misplaced as the referral of the assassination attempt report to SIOC was not a request for risk assessment to be conducted on the UNON compound.

i. The evidence given in the case of *Birya* UNDT/NBI/2014/010 indicates that the UNON Administration was part of the planning of the assassination attempt and that could explain why the Administration failed to investigate the report.

j. The Application is receivable both as to ~~form~~ form and substance.

Considerations on Receivability

20. In *Wasserstrom* 2014 UNAT-457, UNAT discussed the nature of an administrative decision that can be appealed to the Tribunal. It referred to article 2.1(a) of the UNDT Statute and stated that:

The key characteristic of an administrative decision subject to judicial review is that the decision must "produce [] direct legal consequences" affecting a staff member's terms or conditions of appointment. What constitutes an administrative decision will depend on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision

Nature of the decision

21. The decision contested by the Applicant in this Application to the Tribunal is "[f]ailure by the UNON administration to investigate a report on an assassination attempt involving some DSS officers." He alleged that the official who made the decision was the Chief of SIOC.

22. The letter of request to MEU and the subsequent correspondence with the Chief of SIOC makes it clear that the Applicant's complaint was against the Chief of SIOC's alleged failure to investigate the Applicant's report of an assassination attempt that had been referred to him in September 2013.

23. Although the wording of the decision in the Application differs from that identified by the Applicant in his request for management evaluation made on 13 July 2014, the Tribunal finds that the decisions identified in both are substantially the same.

24. It is well established that not taking a decision is an administrative decision that is capable of being reviewed by the Tribunal. The contested decision is the alleged failure of the Chief of SIOC to investigate the Applicant's report of an assassination attempt.

Legal Framework

25. No official issuances establishing the SIOC were submitted to the Tribunal, however, the uncontroverted evidence is that the SIOC is a part of DSS UNON that is constituted to provide advisory services to the UN as an investigative body. The Special Investigator is a position within DSS.

26. The SIOC carried out

Entered in the Register on the 16th day of December 2014

(Signed)

Abena Kwakye Berko, Registrar, Nairobi