

9. On 25 January, the Respondent filed a motion for leave to have receivability considered as a preliminary issue, stating that the STL is not subject to the jurisdiction to the UN Dispute Tribunal.

10. By Order No. 22 (GVA/2012) of 26 January 2012, the Tribunal accepted the motion on the grounds that it would be appropriate in the interest of justice and judicial economy to have receivability considered as a preliminary issue.

11. The Respondent filed his reply on receivability on 16 February 2012.

12. By Order No. 40 (GVA/2012) of 17 February 2012, the Tribunal gave the Applicant two weeks to file observations, if any, on the Respondent's reply. On the same day, the Applicant filed a request for extension of time of one month "to file [her] reply to the STL Registrar's submission".

13. By Order No. 41 (GVA/2012) of 20 February 2012, the Tribunal rejected the Applicant's request. The Tribunal further informed the parties that it considered that the case could be dealt with on the papers, without a hearing, and gave them one week to file objections, if any. Neither party objected to a judgment being rendered on the papers.

14. On 2 March 2012, the Applicant filed observations on the Respondent's reply.

Parties' submissions

15. As regards receivability, the Applicant's principal contentions are:

a. Even though the STL is not an organization of the United Nations, the Dispute Tribunal has jurisdiction to hear this appeal because the Registrar of the STL, who is the author of the contested decision, is a United Nations employee;

b. There is a "solid connectivity" between the STL and the UN system, as evidenced by the fact that the STL was established by the UN Security Council, the STL is a member of the United Nations Joint

Staff Pension Fund, the STL applies the UN common system of salaries, allowances and benefits, and a number of high officials of the STL are appointed by the Secretary-General of the United Nations;

c. The Registrar is a United Nations staff member and is accountable to the Secretary-General in the performance of his duties. The Dispute Tribunal is the only forum which “can sanction the STL’s Registrar over decisions taken in his official dealings with staff”. Admitting that the Registrar of the STL is “untouchable” “would ... be a betrayal of the UN work ethics and ... denial of justice”;

d. The Applicant has to be covered by the jurisdiction of the Dispute Tribunal given the exceptional nature of this case. Failure by the Dispute Tribunal to assert his inherent jurisdiction “would mean a flagrant rejection of a right enshrined in human rights and international law, that of judicial redress”.

16. Concerning receivability, the Respondent’s contentions are:

a. The application is not receivable . The Applicant is neither a staff member, nor a former staff member of the United Nations. The jurisdiction of the Dispute Tribunal is limited to persons having acquired the status of staff members, or former staff members of the United Nations contesting violations of their previous terms of appointment or contract of employment;

b. The Applicant is a former staff member of the STL, which is not a UN organization. The Registrar of the STL is a staff member of the United Nations and therefore he has standing before the Dispute Tribunal but this does not confer the Applicant any rights. Any rights and recourse she had with respect to her employment with the STL are governed by her terms of appointment or contract with the STL, and not the United Nations.

Consideration

17. Article 2.1 of the Statute of the Dispute Tribunal provides:

The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute ... [t]o appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance.

18. Article 3.1 of the Statute further stipulates:

An application under article 2, paragraph 1, of the present statute may be filed by:

() Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

() Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes ...

19. Article 8.1 of the Statute provides:

An application shall be receivable if:

() The Dispute Tribunal is competent to hear and pass judgement on the application, pursuant to article 2 of the present statute;

() An applicant is eligible to file an application, pursuant to article 3 of the present statute;

() An applicant has previously submitted the contested administrative decision for management evaluation, where required ...

20. The first issue to be determined in this case is whether the Applicant is a staff member or former staff member of the United Nations and thus whether the Dispute Tribunal has jurisdiction to hear her case.

21. In UNDT/2011/028, the applicant also was a staff member of the STL. The Dispute Tribunal found:

18. In the present case, the Respondent submits that the Applicant, who is currently serving at the Special Tribunal for Lebanon, is not a staff member of the United Nations. In this

23. The Applicant claims that failure by the Dispute Tribunal to assert his “inherent jurisdiction” over her case “would mean a flagrant rejectio

tróeHYHé