



## **Introduction**

1. The Applicant has challenged the decision of 22 May 2015

**Facts**

7. The Applicant joined the Engineering Section of the United Nations Organization Mission in the Democratic Republic of Congo (MONUC)<sup>1</sup> in 2006 on secondment from the United Nations Development Programme (UNDP). She separated from service with UNDP effective 1 September 2009 and was ~~re~~appointed to MONUC in September 2009. She was separated from service with MONUSCO on 31 July 2015.

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13. The record includes a memorandum dated 22 May 2015 from MONUSCO's Chief Human Resources Officer (CHRO) informing the Applicant that the post she encumbered had been identified for abolition effective 1 July 2015 and that as a result, her appointment would not be renewed beyond 30 June 2015. The Applicant asserts in her Application that she was never provided with this notification and learned of it "through other channels".

14. In an email dated 26 May 2015, the Applicant informed the CHRO that the 17 April 2015 memorandum did not indicate that the Mission would identify a suitable vacant post for her while it did the same for her colleagues. She asked for an explanation of the unequal treatment she was being given. On the same day, she wrote to DFS again to complain about the discrimination she was facing in MONUSCO.

15. On 2 June 2015, the Chief of the Engineering Section sent a request to the Director of Mission support for the Applicant to be placed on one of several vacant posts. According to the Applicant, this request did not receive a response.

*novo* investigation of a formal complaint of discrimination or rule on the merits of whether a staff member was subject to gender discrimination.

## **Considerations**

24. In *Messinger* 2011-UNAT-123, the United Nations Appeals Tribunal examined the competence of the UNDT under its statute to determine allegations of harassment where there are established procedures under the Staff Rules and administrative issuances for that purpose. It held that:

It is clear that the UNDT is not clothed with jurisdiction to investigate harassment complaints under Article 2 of the UNDT Statute. However, for the purpose of determining if the impugned

**Decision**

29. The Tribunal finds that the Application is receivable in its entirety.

*(Signed)*

Judge Coral Shaw

Dated this 19<sup>th</sup> day of January 2016

Entered in the Register on this 19<sup>th</sup> day of January 2016

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi