



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

CHERNEVA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UNICEF

Introduction

1. By application filed on 22 March 2021, the Applicant, a former staff member of the United Nations Children’s Fund (“UNICEF”), contests the alleged decision to “fire” the Director of Partnerships at UNICEF.

Consideration

2. The only issue at stake in the case at hand is whether the application is receivable, as receivability is a condition *sine qua non* for judicial review by the Tribunal.

3. Indeed, the examination of an application’s receivability is a matter of law, which may be adjudicated without serving the application on the Respondent for a reply and even if not raised by the parties (see *Christensen* 2013-UNAT-335). Accordingly, the Tribunal deems it appropriate, on its own initiative and in accordance with art. 9 of its Rules of Procedure, to decide on the present application by way of summary judgment, which has been accepted as an appropriate means to deal with issues of receivability (see *Chahrour* 2014-UNAT-406, *Gehr* 2013-UNAT-313, *Cherneva* UNDT/2018/081, *Cherneva* UNDT/2020/074 and *Cherneva* UNDT/2021/003).

4. The Applicant indicates in her application that she is a former staff member of UNICEF who separated from service in 2018. In her present application, she contests the decision to “fire” the UNICEF Director of Partnerships.

5. According to art. 2.1 of its Statute, the Tribunal is competent to hear and pass judgment on an application filed by, *inter alia*, a former staff member as provided for in art. 3.1(b) of the same Statute. However, for an application to be receivable, the former staff member shall “appeal an administrative decision that is alleged to be in non-compliance with [his/her] terms of appointment or [his/her] contract of employment”, e.g., a decision linked to a separation from service.

6. The Appeals Tribunal confirmed in *Khan* 2017-UNAT-727, para. 28 citing *Ghahremani* 2011-UNAT-171, that a former staff member of the Organization has

access to the Dispute Tribunal only in respect of administrative decisions affecting the terms of his or her former appointment or contract.

7. In the present case, the Tribunal finds that the application is not receivable *ratione personae* and *ratione materiae* because at the date of the filing of the present application, the Applicant was not a staff member and the contested decision has no bearing on her status as a former staff member or otherwise breached the terms of her former appointment or contract of employment.

Conclusion

8. In view of the foregoing, the Tribunal DECIDES to reject the application in its entirety.

(Signed)

Judge Teresa Bravo

Dated this 25th June of 2021

Entered in the Register on this 25th June of 2021

(Signed)

René M. Vargas M., Registrar, Geneva