



**Before:** Judge Joelle Adda  
**Registry:** New York  
**Registrar:** Nerea Suero Fontecha

MINZER

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**  
Cristián Gimenez Corte

**Counsel for Respondent:**  
Alan Gutman, ALD/OHR, UN Secretariat  
Clémentine Foizel, ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant, a former staff member of the Economic Commission for Latin America and the Caribbean (“ECLAC”) appealed the decision to reject his request for reassignment.
2. The Respondent replied that the decision is moot, because the Applicant separated on medical grounds on 19 August 2021, following an uninterrupted medical leave starting 21 February 2020.
3. For the reasons stated below, the Tribunal dismisses the application as moot.

## **Factual and procedural background**

4. The Applicant was placed on sick leave on 20 February 2020.
5. On 29 October 2020, the Administration declined Applicant’s request to be assigned to a new supervisor after having filed a complaint of misconduct concerning his First Reporting Officer (“FRO”).
6. On 19 August 2021, the Applicant separated from the Organization on medical grounds.

## **Consideration**

7. The Tribunal notes that in section IX of the application, under the headline “What remedies are you seeking?”, the Applicant states (emphasis in the original):

... [...] [the Applicant] respectfully requests the Tribunal the rescission of the decision taken by the [Administration] not to transfer him to a different Unit and under a different supervisor”[.]

... As your Honour will note, at this stage of the conflict it would be impossible for the parties involved to work together; so a simple

transfer or a change in reporting lines would benefit not only [the Applicant], but also his supervisor, and ultimately the whole Organization.

8. Therefore, the only remedy requested by the Applicant is the rescission of the contested administrative decision not to reassign him.

9. The Tribunal recalls that in *Kallon* 2017-UNAT-742, paras. 44, the Appeals Tribunal explained the mootness doctrine as follows:

... A judicial decision will be moot if any remedy issued would have no concrete effect because it would be purely academic or events subsequent to joining issue have deprived the proposed resolution of the dispute of practical significance; thus placing the matter beyond the law, there no longer being an actual controversy between the parties or the possibility of any ruling having an actual, real effect. The mootness doctrine is a logical corollary to the court's refusal to entertain suits for advisory or speculative opinions. Just as a person may not bring a case about an already resolved controversy (*res judicata*) so too he should not be able to continue a case when the controversy is resolved during its pendency. The doctrine accordingly recognizes that when a matter is resolved before judgment, judicial economy dictates that the courts abjure decision.

10. Moreover, the Appeals Tribunal has stated that the Tribunal may not award remedies that have not been requested by the applicant (see *Debebe* 2013-UNAT-288, para. 21).

11. Since the Applicant in this case is separated, he can no longer be reassigned, as he requests. Therefore, under the jurisprudence of the Appeals Tribunal in *Kallon*, the application is moot, since the sought remedy would have no concrete effect.

**Conclusion**

12. In light of the foregoing, the Tribunal rejects the application.

*(Signed)*

Judge Joelle Adda

Dated this 14<sup>th</sup> day of December 2021

Entered in the Register on this 14<sup>th</sup> day of December 2021

*(Signed)*

Nerea Suero Fontecha, Registrar, New York