



## **Introduction**

1. This Order disposes of the applicant's request for recusal of Judge Jean-François Cousin, to whom her case—which is about a non-promotion—is assigned.

## **Facts**

2. By letter dated 14 July 2009, the applicant submitted to the Dispute Tribunal an incomplete application. In her letter, which was addressed to the President of the Tribunal and to the New York full-time Judge, she requested,



13. On 14 September 2010, the President sought and obtained comments from Judge Cousin on the applicant's request for recusal.

**Applicant's contentions**

14. The applicant's contentions are :
- a. Article 27 of the Dispute Tribunal's rules of procedure defines a conflict of interest as a situation in which a judge has served previously, "which is the case here where Judge Cousin has erroneously rendered [two] adverse UNDT judgments against [her]";
  - b. Judge Cousin's judgments against her have been "overruled" by the Appeals Tribunal;
  - c. Judge Cousin "has not apologized for rejecting [her] arguments and for ignoring all the previous UNDT jurisprudence on receivability";
  - d. "The hasty and erroneous judgments rendered against [her] by Judge Cousin create an appearance of bias and *chose jugéeres*

## Considerations

15. Article 4.9 of the Dispute Tribunal's statute stipulates:

... Where a party requests [the] recusal [of a judge], the decision shall be taken by the President of the Dispute Tribunal.

16. Article 27 of the Tribunal's rules of procedure defines "conflict of interest" as follows:

1. The term "conflict of interest" means any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her.

2. A conflict of interest arises where a case assigned to a judge involves any of the following:

(a) A person with whom the judge has a personal, familiar or professional relationship;

(b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness;

(c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge's participation in the adjudication of the matter would be inappropriate.

17. Finally, article 28.2 of the rules of procedures requires that:

2. A party may make a reasoned request for the recusal of a judge on the grounds of a conflict of interest to the President of the Dispute Tribunal, who, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing...

18. None of the situations mentioned in the above-quoted article 27.2 arise in the present case.

19. Contrary to the applicant's understanding of article 27.2 (b) of the Tribunal's rules of procedure, it is not enough for a judge to have previously served in any matter involving an applicant to give rise to a conflict of interest. According to the clear wording of this provision, a conflict of interest may arise

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