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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/056/R1

Order No.: 092 (NBI/2023)

Date: 25 May 2023

Original: English

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**Before:** Judge Agnieszka Klonowiecka-Milart, Judge President

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

NIGAM

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON THE APPLICANT S MOTION  
FOR RECUSAL**

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**Counsel for the Applicant:**

Patolla Niroop

**Counsel for the Respondent:**

Angela Arroyo, UNDP

## **Introduction**

1. The Applicant was a staff member of the United Nations Development

- c. In light of the reasons for remanding the case to the UNDT by UNAT, there is no basis for accepting a motion for recusal. It is left to him to follow his guidance in the circumstances and produce a just decision thereafter.

### **Considerations**

4. In accordance with art. 4.9 of the UNDT Statute, art. 28.2 of the Rules of Procedure sets out the procedure by which an applicant can request the recusal of a judge:

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. A request for recusal of the President shall be referred to a three-judge panel for decision.

5. Article 27.2 the Rules of Procedure defines that,

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 matter would be inappropriate.

6. Finally, paragraph 2(b) of the Code of Conduct for Judges of the Dispute and Appeals Tribunals provides that a judge shall be disqualified from a case if: (i) They have a conflict of interest; (ii) It may reasonably appear to a properly informed person that they have a conflict of interest; (iii) They have personal knowledge of disputed evidentiary matters.

7. In the present case, the grounds stated as the conflict of interest are that Judge

