

Case No.:

UNITED NATIONS DISPUTE TRIBUNAL

Introduction

1. The Applicant filed on 28 December 2014 the Applicant's (retired staff member) of the International Civil Service Tribunal for the former Yugoslavia (ICTY) contests the Assistant Secretary-General's (human resources management) A/2G/745601 decision of 17 June 2014 denying the promotion of the Applicant into a permanent appointment.

2. The Applicant's (revised) submissions;

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g. An! ot*e((e#\$ef t*at t*e T(\$'una# deems ?ust and "(o"e(.

Facts

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7. The Tribunal's decision of 15 October 2014 dated 20 August 2014 is hereby confirmed. The Tribunal also confirms the decision of the Commission of 15 October 2014, and the decision of the Commission of 15 October 2014, to take account of the measures taken by the Tribunal in 2010.

8. In June 2006, the Tribunal decided to implement a permanent appointment of staff members to the Tribunal's permanent staff. The Tribunal's decision of 15 October 2014 is hereby confirmed. The Tribunal also confirms the decision of the Commission of 15 October 2014, and the decision of the Commission of 15 October 2014, to take account of the measures taken by the Tribunal in 2010.

12.

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d.

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assessments) as a result of the Geneva Assembly and C2C) you should not
have been selected for granting the Applicant a permanent assessment

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Consideration

Preliminary matter

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54. T*\$s adm\$nst(at\$-e de%\$\$son must and does s"eaA fo(\$tse#. +n "a(t\$u#a() t*e "(e-\$ous (efusa#s of %on-e(\$son of t*e A ""#\$%ant>s a""o\$ntment \$n t*e fa## of 2011) a#t*oug* fa%tua## ! (e#ated) \$s 'e !ond t*e s%o"e of (e-\$e9 of t*\$s a""#\$%at\$on) as a(e an! post facto e8"#anat\$ons of t*e de%\$\$son at \$ssue. T*(efo(e) t*e fo%us of t*e T(\$' una#>s (e-\$e9 9 \$## 'e on as%e(ta\$ng 9 *et*e(t*e \$m"ugned de%\$\$son) as \$t \$s %ou%*ed \$n t*e 17 June 2014 #ette(sent to t*e A ""#\$%ant) 9as made \$n %onfo(m\$t! 9\$t* t*e d\$(e)t\$ons g\$-en ' ! t*e A""ea#s T(\$' una# \$n Judgment Ademagic et al.

substantive legality of the decision

2. Nature of the decision

57.

a. Commission of false allegations of continuous sexual harassment in violation of the provisions of the Staff Regulations and Rules of the United Nations Secretariat at Large (SRAR) and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as the United Nations Charter and the United Nations Declaration on the Elimination of Violence Against Women (DEVAW).

b. Demonstration of the highest standards of efficiency and integrity in the conduct of the Commission's work.

c. Demonstration of the highest standards of efficiency and integrity in the conduct of the Commission's work.

d. Determination that the granting of a permanent appointment is in the best interests of the United Nations.

61. In sum, the Commission shall also assess the two eligibility conditions set forth in section 1 of the Staff Regulations and Rules (SRAR) (i.e., false allegations of continuous sexual harassment in violation of the provisions of the Staff Regulations and Rules of the United Nations Secretariat at Large (SRAR) and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as the United Nations Charter and the United Nations Declaration on the Elimination of Violence Against Women (DEVAW)) and to differentiate the elements of the suitability test as set forth in section 2 of the same instrument.

62. To constitute the element

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6@. 2u%* an \$nte("etat\$on 9ou#d de-o\$d of an! mean\$ng t*e te(m /(et(oa%t\$-e0) t*at t*e A""ea#s T(\$'una# %ons%\$ous#! and "u("osefu##! %*ose to use. +n add\$on Judgment Ademagic et al. 201=3UNAT3=5& states t*at t*e ent\$t#ement to (e%e\$-e a "(o"e(su\$ta'\$#\$t! dete(m\$nat\$on fo((et(oa%t\$-e %on-e(s\$on) /a""#ses e:ua##! to an! #t\$gant staff mem'e(s 9*o 9e(e "a(t of t*e o(\$g\$na# %on-e(s\$on e8e(%\$se at \$ssue) 'ut *a-e s\$ne #eft t*e se(-\$%e of +CT, 0< t*\$s fu(t

71. It follows that the Commission's decision is not based on the facts as of the date of the event (June 2014) but on the facts as of the date of the Commission's decision (June 2015). The Commission's decision is not retroactive.

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&0. Against the 'a' ground the Tribunal tends to affirm the Administrative Commission's decision that the State mandate of ICT, as well as of ICT) is a factor that can be considered in determining on the Commission of the Antisocial Movement to (maintain. 409e-e) although it is a matter to give adequate

*remedies

4. Article 10.5 of the 2002 Statute defines the Tribunal's "orders" (including the award of remedies) "including;

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101. The T(\$'una# *as %on%#uded) "(e%\$se#!) t*at t*e A2G/7 4 5 6 *ad at no "o\$nt

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112. For the reasons outlined above, it follows that the relevant amendment to

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Inte(ed \$n t*e 5eg\$ste(on t*s 17^{t*} da! of De%em 'e(2015

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