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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/079

Judgment No.: UNDT/2019/082

Date: 13 May 2019

Original: English

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Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye Berko

SAWENJAH

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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JUDGMENT ON RECEIVABILITY

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Counsel for the Applicant:  
Self-represented

Counsel for the Respondent:  
Kong Leong Toh, UNOPS



An application under article 2, paragraph 1, of the present statute may be filed by:

- (a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;
- (b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;
- (c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.

5. The foregoing provisions clearly stipulate that the jurisdiction of the UNDT is limited only to persons who are staff members of the United Nations or who were former staff members as set out in art. 3.1 of the UNDT Statute. To that extent, the UNDT's jurisdiction does not apply to the hearing of applications from non-staff members. An individual contractor is not a staff member of the United Nations.

6. As correctly argued by the Respondent, the evidence shows that the Applicant signed a contract with UNOPS governed by the terms and conditions of the UNOPS Individual Contractor Agreement (ICA). The Respondent annexed the ICA as annex 13 to the reply. The ICA was signed by the Applicant on 11 March 2016 and was applicable at the time of the termination of the Applicant's employment with UNOPS. Paragraph 1.1 of the ICA specifically provides that

[t]he Individual Contractor shall have the legal status of an independent contractor vis-à-vis UNOPS and shall not be regarded, for any purpose, as a staff member of UNOPS or any entity of the United Nations ...

7. The Applicant, not being a staff member of UNOPS or any other entity of the United Nations, has no locus standi before this Tribunal in relation to the decision to terminate his appointment with UNOPS



## Considerations

13. In his application under section “VI. Management Evaluation”, the Applicant states that he did not request management evaluation of the decision to terminate his contract with UNOPS and to deduct money by UNDP.

14. In accordance with Article 8 of the Statute of the United Nations Dispute Tribunal, an application is receivable if:

[...]

(c) An applicant has previously submitted the contested administrative decision for management evaluation, where required;

15. Absent a request for management evaluation, the Tribunal may not consider the merits of the case.

## Conclusion

16. The application is rejected as irreceivable.

(Signed)

Judge Agnieszka Klonowiecka Milart

Dated this 13<sup>th</sup> day of May 2019

Entered in the Register on this 13<sup>th</sup> day of May 2019

(Signed)

Legal Officer, for,  
Abena Kwakye Berko, Registrar, Nairobi