
UNITED NATIONS DISPUTE TRIBUNAL

Case Nos.: UNDT/NY/2019/069
UNDT/NY/2019/089
Judgment No.: UNDT/2020/146
Date: 14 August 2020
Original: English

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

MOHAMED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON RECEIVABILITY

Counsel for Applicant:

Joseph Grinblat

Counsel for Respondent:

Nusrat Chagtai, ALD/OHR, UN Secretariat

Christine Graham, ALD/OHR, UN Secretariat

Case Nos. UNDT/NY/2019/069

UNDT/NY/2019/089

Judgment No. UNDT/2020/146

Second application

a. Relevant facts

6.

on the As the
current Chair of the ICSC informed the Applicant on 6 March 2019, OIOS had notified

credible. ICSC had then reviewed the matter under art. 7 of its Statute which provides for the termination of a

opinion of the other members, he or she has ceased to discharge the duties in a manner consistent with [the Statute] . The Chair informed the Applicant that the ICSC was unable to reach a unanimous opinion under this provision and that the former Chair had resigned his position effective 14 December 2018.

7.

ICSC Chair stated the following:

14. The Tribunal is not persuaded that this case is comparable to *Obino*. In that case, the contested decision was the Secretary-General's communication to the ICSC to reclassify two duty stations. In the present case, the matter under review is not the Secretary-General's communication of a decision by the ICSC but rather the decision itself communicated to the Applicant directly by its Chair.

15. While the decision under review in *Obino* was of a different nature, the Tribunal finds relevance in its findings in *Obino* UNDT/2013/008 concerning the status of the ICSC. The Tribunal recalled that the ICSC was established by the General Assembly as an independent expert body pursuant to General Assembly resolution 3357 (XXIX) of 18 December 1974 (para. 37). The Tribunal further recalled that pursuant to art. 6

independence and with impartiality; they shall not seek or receive instructions from any Government, or from any secretariat or staff association of an organization in the United Nations system.

The Tribunal went on to conclude that the ICSC is not answerable to the Secretary-General.

16. The Tribunal concurs with these findings and concludes that the ICSC decision under review in this case is not attributable to the Secretary-General. Accordingly, it cannot be considered to fall within the scope of art. 2.

The second application is therefore not receivable *ratione materiae*.

Conclusion

17. Cases nos. UNDT/NY/2019/069 and UNDT/NY/2019/089 are dismissed as not receivable.

(Signed)

Judge Joelle Adda

Dated this 14th day of August 2020

Entered in the Register on this 14th day of August 2020

(Signed)

Nerea Suero Fontecha, Registrar, New York