



## **Introduction**

1. The Applicant, a staff member of the United Nations Economic Commission



challenge of the decision not to take further action following his complaints of 1 and 24 May 2019.

12. On 8 November 2021, the Applicant further clarified the scope of his challenge and his request for relief as follows:

- a. is May 2019 complaints did not concern another staff member but were rather directed to the ECA for having failed to protect him against harassment, in violation of sec. 2.2 of ST/SGB/2008/5;
- b. He does not request the initiation of an investigation on his complaint because the facts were known, verified and irrefutable, and he requested the ECA to accept these facts and compensate him for violation of his rights;
- c. He requested the imposition of administrative and disciplinary

13. In light of the above, the Tribunal understands that the Applicant seeks: (a) an admission by the Administration of his account of events and compensation for the harm caused by such events, absent any investigation and, (b) the imposition of sanctions against other staff members, absent any investigation.

*Receivability of the application*

14. The Appeals Tribunal has defined an appealable administrative decision under administrative nature taken by the administration involving the exercise of a power or the performance of a function in terms of a statutory instrument, which adversely

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*Alcañiz et al.* 2018-UNAT-840, para. 61).

16. The Applicant responds that the Administration violated his right to a harmonious work environment free of harassment and abuse of authority, recognized in sec.2.2 of ST/SGB/2008/5. He insists, however, that the Administration ought to admit to this without the need for a fact-finding process as this fact is and

17. The Tribunal recalls the well-settled jurisprudence of the Appeals Tribunal that the institution of disciplinary proceedings is the privilege of the Organization (see, for instance, *Benfield-Laporte* 2015-UNAT-505, para. 37).

18. The Tribunal further recalls that pursuant to staff rule 10.3 and ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process), a finding of misconduct and subsequent imposition of sanctions on a staff member may only be established through the proper investigative process.

19. Therefore, an alleged consequences may only be established through the appropriate legal process. The Applicant has no right to the Administration acceptance of his account of events, nor to the imposition of sanctions against another staff member without due process.

20. Therefore, this aspect of the application does not constitute an appealable decision and is not receivable *ratione materiae*.

21. The Applicant further requests compensation for the harm caused to him. However, rather than challenging the legality of an administrative decision, which may have had legal consequences on his contractual rights, the Applicant demands that said harm be recognized by the Administration on the basis of his account of events.

22. As stated above, the Applicant is not entitled to such recognition of facts. Therefore, he has failed to identify a challengeable administrative decision.

23. This aspect of his application is therefore also not receivable *ratione materiae*.

**Conclusion**

24. In light of the foregoing, the application is rejected as not receivable.

*(Signed)*

Judge Joelle Adda

Dated this 19<sup>th</sup> day of November 2021

Entered in the Register on this 19<sup>th</sup> day of November 2021

*(Signed)*

For:

Nerea Suero Fontecha, Registrar, New York