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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/063

Judgment No.: UNDT/2023/079

Date: 28 July 2023

Original: English

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**Before:** Judge Francesco Buffa

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

LE BAILLY DE LA FALAISE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for the Applicant:**

Self-represented

**Counsel for the Respondent:**

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Maureen Munyolo, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant, a Senior Programme Management Officer at the P-5 level with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”), based in Goma, is contesting the undue delay of his Electronic Performance Appraisal System (“e-PAS”) evaluation for 2020-2021, and the negative comments made therein







27. No workplan was established two years after his FRO took his post.

28. The Applicant's FRO was "still [...] waiting for the results of the management review [OIOS Auditors] of SSU which must also be weighed in the assessment of [the] performance." For this reason, the Applicant's ePas was "blocked since November 2020."

29. The Applicant claims that his FRO added questions to assess his performance that come about one year after the due time for the 2019-2020 ePAS cycle and two years after the due time for the 2020-2021 ePas cycle. According to the Applicant, questions as







43. Pursuant to section 15.7 of ST/AI/2010/5, indeed,  
[t]he rating resulting from an evaluation that has not been rebutted is

49. The same judgment, at paras. 33-34, indeed, stated as follows:

It is true that a good final rating, which *in abstracto* is a favourable decision, does not constitute an “administrative decision” able, by itself, to have a direct and negative impact on a staff member’s rights and, accordingly, there is no legal basis pursuant to Article 2(1)(a) of its Statute for a staff member to file an application before the Dispute Tribunal.

Nevertheless, as already noted, the determination on whether a specific decision of the Administration constitutes an appealable administrative decision is done *in concreto* on a case-by-case basis by the UNDT Judge, who takes into consideration, *inter alia*, the particular circumstances, the nature of that decision as well as its relevant decision context and consequences on the staff member’s terms and conditions

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