



Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

FADOL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR

Rosangela Adamo, AAS/ALD/OHR

Introduction

1. The Applicant is a former Heavy Vehicle Operator at the G-4 level working with the African Union-United Nations Hybrid Operation in Darfur (UNAMID) in Sudan.¹

2. By an application filed on 10 October 2019, he contests UNAMID's decision to place him on special leave without pay (SLWOP) from 24 August 2017.²

3. The Respondent filed a reply on 18 November 2019.

Facts

4. On 28 May 2017, the Applicant was arrested by the National Intelligence Security Service (NISS) of the Government of Sudan.³ On 24 August 2017, the Applicant was found guilty of the crimes charged and sentenced to two years in prison.⁴

5. On 24 August 2017, following his conviction, the Applicant was placed on SLWOP.⁵ Admittedly, he was released on 12 August 2018.⁶

6. The Applicant requested management evaluation of the contested decision on 6 July 2019 and received the response from the Management Evaluation Unit on 27 August 2019.

Considerations

7. As a preliminary matter, the Tribunal notes that it is competent to raise a receivability issue on its own initiative, whether or not it has been raised by the parties (see, for instance, *O'Neill* 2011-UNAT-182, para. 31).

¹ Application, section I.

² Application, section V.

³ Reply, R/3.

⁴ Reply, R/4.

⁵ Reply, R/5.

⁶ Application section, section VIII.

8. Staff rule 11.2 (c) provides that:

A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested. The deadline may be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General.

9. The Appeals Tribunal in *Babiker* emphasized that the Dispute Tribunal may only review decisions that have been the subject of a proper and timely request for management evaluation.⁷ Further, pursuant to art 8.3 of its Statute, the Dispute Tribunal is not competent to waive the deadline for requesting management evaluation of the contested decision.

10. In the present application, the Applicant was notified of his placement on SLWOP in August 2018⁸ and he requested for management evaluation on 6 July 2019, almost a year after the contested decision was communicated to him. The request fell way out of the 60-day deadline. Accordingly, it is not open for the Tribunal to entertain complaints that have not been presented for management evaluation in a timely manner.

JUDGMENT

11. The Application is dismissed as not receivable.

(Signed)

Judge Agnieszka Klonowiecka-Milart
Dated this 4th day of February 2020

⁷ *Babiker* 2016-UNAT-672, para. 45.

⁸ Application, section V.

Entered in the Register on this 4th day of February 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi