



Before: Judge Francesco Buffa

Registry: New York

Registrar: Isaac Endeley

RODRIGUEZ SANTORUM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT
ON RECEIVABILITY

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Jerome Blanchard, LPAS/UNOG

Camila Nkwenti, LPAS/UNOG

Introduction

1. The Applicant is a former staff member of the International Organization for Migration (“IOM”) in Guatemala. On 10 April 2025, he filed an application with the New York Registry of the Dispute Tribunal contesting the decision to deny him coverage under IOM’s after-service health insurance scheme (“ASHI”).

2. Upon initial review of the application, the Registry observed that the Applicant had not fulfilled certain formal requirements under art. 8.4 of the Tribunal’s Rules of Procedure. The Registry immediately informed the Duty Judge of the filing deficiency and notified the Applicant, who promised to provide the missing information.

3. After several reminders from the Registry, the Applicant sent an email on 20 May 2025 stating that he was “still waiting for a reply” from the United Nations Administration and requesting the Tribunal to “estimate [his] claim and move forward with the procedure”.

Considerations

Receivability

4. The Tribunal recalls its Judgment No. UNDT/2023/064 dated 23 June 2023 in which it had rejected, in part, a similar claim from the same Applicant as not receivable on the basis that administrative decisions of IOM do not fall under the Tribunal’s jurisdiction.

5. Subsequently, in Judgment No. UNDT/2023/095 dated 11 September 2023, the Tribunal found the Applicant’s challenge against a related administrative decision by the Health and Life Insurance Section (“HLIS”) in the United Nations Secretariat to be receivable but rejected it on the merits.

6. The Tribunal notes that in the present case, even though the Applicant is a former staff member of IOM, he contests a decision by HLIS to deny him coverage under ASHI.

7. The application was not served on the Respondent because the Registry determined that it did not fulfill the requirements of art. 8.4 of the Rules of Procedure. Therefore, there is no reply to consider.

8. It is well established in the jurisprudence of the Appeals Tribunal that the Dispute Tribunal has the authority to satisfy itself that an application is receivable under art. 8 of its Statute (see, for instance, *O'Neill* 2011-UNAT-182, para. 31, as affirmed in *AAX 2024-UNAT-1504*, para. 47). The Appeals Tribunal has also held that the Dispute Tribunal may consider the receivability of an application as a preliminary matter before reviewing the merits of the case (see, for instance, *Pellet* 2010-UNAT-073). Moreover, the issue of receivability may be adjudicated even without serving the application on the Respondent for a reply, and even if the parties did not raise it. A determination on receivability must be made without regard to the merits of the case (see, for instance, the Appeals Tribunal in *Gehr* 2013-UNAT-313; *Christensen* 2013-UNAT-335; *Cooke* 2013-UNAT-380; *Lee* 2014-UNAT-481).

9. The Tribunal recalls that under staff rule 11.2(a), staff members wishing to formally contest an administrative decision alleging non-compliance with their contract of employment or terms of appointment, including all pertinent regulations and rules pursuant to staff regulation 11.1(a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision.

10. The Tribunal further recalls that under staff rule 11.4(a), a staff member contesting an administrative decision may file an application before the Dispute Tribunal “within 90 calendar days from the date on which the staff member received the outcome of the management evaluation”.

11. Having carefully examined the application as filed on 10 April 2025, the Tribunal notes that it does not contain any evidence of the outcome of a management evaluation received by the Applicant “within 90 calendar days” prior to the filing of the application. Instead, the supporting materials include an email dated 11 April 2022, with the subject line “RE: Management Evaluation Request on ASHI”, from the former Management Evaluation Unit to the Applicant

acknowledging receipt of his “email and submission”. It is unclear from the record whether the Applicant ever received a proper response reflecting the outcome of the management evaluation as stipulated under staff rule 11.2(d). The other supporting materials annexed to the application are mainly a series of email exchanges between the Applicant and human resources representatives from IOM and United Nations Headquarters, also dating back to 2022, discussing his ASHI options.

12. Using the date of 11 April 2022 as a starting point—in the absence of any further information from the Applicant—the Tribunal observes that pursuant to staff rule 11.2(d), since the Applicant was based in Guatemala, the management evaluation outcome should have been communicated to him “within 45 calendar days”, or by 26 May 2022. Moreover, under staff rule 11.4(a), even if no management evaluation outcome was received by that deadline, the Applicant was still required to file his application with the Dispute Tribunal within 90 calendar days from the date when the outcome would have fallen due, or by 24 August 2022.

13. In the present case, the Applicant only filed the application on 10 April 2025, which was well beyond the applicable time limit. The Tribunal therefore concludes that the application is not receivable *ratione temporis*.

Conclusion

14. The application is rejected as not receivable *ratione temporis*.

(Signed)

Judge Francesco Buffa

Dated this 30th day of May 2025

Entered in the Register on this 30th day of May 2025

(Signed)

Isaac Endeley, Registrar, New York