

UNDT/2012/104, Manco

UNAT Held or UNDT Pronouncements

The Tribunal noted that the Respondent was challenging the receivability of the application based on two notifications to the Applicant i.e. the email of 22 March 2010 and the letter of 21 October 2010. With regard to the email of 22 March 2010, the Tribunal held that the email was a mere request or a piece of advice to the Applicant with regard to the permanent residency policy, and not an administrative decision. The Administration was merely advising or requesting further information from the Applicant in order to be in a position to process and presumably finalise the two year appointment that was offered to him. For the letter of 21 October 2010, the Tribunal found that the date the Respondent sought to rely on-was the date of writing of the letter but not the date it was; communicated to the Applicant. The Tribunal thus held that the date of communication; should take precedence over the date of its writing. In view of the above, the Tribunal found that the Administration had not notified the Applicant in writing as had been argued by the Respondent. Accordingly, the Tribunal concluded that the application was receivable *ratione temporis* and *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Administration's decision requiring him to either renounce his permanent resident status in New Zealand or apply for citizenship there should he wish to take up the offer of a P-3 Investigator position in Nairobi.

Legal Principle(s)

Pursuant to the settled jurisprudence of the Tribunal, unless the decision is notified in writing to the staff member, the limit of 60 calendar days for requesting management evaluation of that decision does not start. Further, where the Administration chooses not to provide a written decision, it cannot argue against receivability of an application.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Manco

Entity

UNON

Case Number(s)

UNDT/NBI/2011/021

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

6 Jul 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2(c)
- Rule 8.1

UNDT Statute

Related Judgments and Orders

2013-UNAT-342