

UNDT/2012/105, Dzuverovic

UNAT Held or UNDT Pronouncements

Receivability/Waive or suspend MEU deadlines: It has been established in the UNDT and the United Nations Appeals Tribunal (UNAT) jurisprudence as well in the provisions of the UNDT Statute that the UNDT does not have the power to suspend or waive deadlines regarding time limits for management evaluation. The Tribunal, being a creature of statutory law, cannot go beyond its mandate. If there was concrete evidence to show that the Ombudsman was seized of the matter within the stipulated time limits and if there was evidence showing the date on which the Ombudsman acknowledged receipt of the matter and the period for which he worked on it for purposes of mediation, the Tribunal would be in a position to consider, not whether it can waive deadlines for management evaluation, but whether indeed the relevant period had effectively extended the deadline for management evaluation and consequently for approaching the Tribunal. The Application in this case is not receivable and the Tribunal consequently lacks the jurisdiction to entertain it. Recommendation: It appears that substantive justice for the Applicant may have fallen through the cracks in the formal and informal justice systems and consequently eluded her for more than a decade, it has become necessary for the Secretary-General in his good offices to take a compassionate view to these issues. While this Tribunal has no capacity to review the judgment of the former UNAT or indeed the decisions of the JAB made about ten years before the new internal justice system came into being, it is compelled, bearing in mind the special circumstances in this matter, to recommend it to the Secretary-General for sympathetic review with a view to bringing substantive justice and closure to it. This recommendation is made bearing in mind the special measures that have been put in place with regards to the protection of whistle-blowers who risk their jobs, professional lives and livelihoods by courageously seeking to expose wrong-doings within the Organization.

Decision Contested or Judgment/Order Appealed

The Applicant is contesting the decision of the Office of Internal Oversight Services (OIOS) dated 26 August 2010 not to take action on her request to investigate allegations of irregularities in the UN-Habitat, which she first reported in 1995.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Dzuverovic

Entity

UN-Habitat

Case Number(s)

UNDT/NBI/2012/6

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

12 Jul 2012

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(c)

UNDT Statute

- Article 8.1(c)
- Article 8.1(d)(i)
- Article 8.2

Related Judgments and Orders

UNDT/2010/177

UNDT/2009/051

UNDT/2012/074

2010-UNAT-072

2010-UNAT-036

2011-UNAT-108

2012-UNAT-191

