

UNDT/2012/148, Kratschmer

UNAT Held or UNDT Pronouncements

The UNDT found no grounds for excusing the Applicant from his obligation to first request management evaluation before filing his application with the Dispute Tribunal.

Decision Contested or Judgment/Order Appealed

The Applicant, who previously worked as Regional Administration Officer with the United Nations Integrated Mission in Timor-Leste (“UNMIT”), filed an application with the Dispute Tribunal in New York, complaining that his former First Reporting Officer (“FRO”) had not submitted a “Special Report” concerning him for the period 22 October 2010 to 30 April 2011. The Applicant filed this claim in the expectation that the Tribunal would order UNMIT to discuss with him his performance in certain functions during this period and to provide him with a “Special Report” as well as to reinstate him in his former post so that this could be done. The Applicant agrees that he had not requested management evaluation.

Legal Principle(s)

Management evaluation: Pursuant to art. 8 of the Statute of the Dispute Tribunal, read together with staff rule 11.2(a), an applicant must, as a mandatory first step, request management evaluation of a contested decision before filing an application with the Dispute Tribunal (see the United Nations Appeal Tribunal (“UNAT”) in Planas 2010-UNAT-049, para. 23). The purpose of such management evaluation is primarily to allow the management to review, and possibly correct, an administrative decision, which an individual wishes to challenge, and thereby avoid unnecessary litigation before the Dispute Tribunal. Under art. 3.1(b) of the Dispute Tribunal’s Statute, as a former staff member of the United Nations, the Applicant may file an application with the Dispute Tribunal. However, no special exception is made for former staff

members that releases the Applicant from the requirement that he must first request management evaluation before he files his application with the Dispute Tribunal. Definition of administrative decision: A contestable decision may arise when the Administration fails, or omits, to take proper action where an applicant can define a right for her or him to have such action be taken (see, for instance, Tabari 2010-UNAT-030).

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Kratschmer

Entity

UNMIT

Case Number(s)

UNDT/NY/2011/052

Tribunal

UNDT

Registry

New York

Date of Judgement

9 Oct 2012

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

Staff Rules

- Rule 11.2

UNDT Statute

- Article 3.1(b)
- Article 8

UNAT Statute

- Article 2.1(a)