

UNDT/2015/047, Belkhabbaz

UNAT Held or UNDT Pronouncements

The Tribunal rejected all of them as irreceivable: first, it found that the application concerning a decision to refer allegations of misconduct made against the Applicant to the Assistant Secretary-General, Office of Human Resources Management, was time-barred, as the Applicant had not filed her application within 90 calendar days of the expiry of the 45-day response period for management evaluation. Secondly, the Tribunal considered that the Applicant missed the 60-day deadline to request management evaluation for three other administrative acts she wished to contest, two of them being identical. Finally, the Tribunal found that neither of the two remaining acts the Applicant wished to contest, namely the mere intention to place a note on her official status file and the “motivation” of the decisions made against the Applicant, were constitutive of an administrative decision subject to being appealed.

Decision Contested or Judgment/Order Appealed

The Applicant challenged a number of decisions relating to a preliminary investigation in a disciplinary matter.

Legal Principle(s)

Receivability *ratione temporis*: A reply to a request for management evaluation issued beyond the 90-day time limit to file an application before the Tribunal does not reset a new 90-day deadline to file an application. Confirmative decision: The reiteration of an administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to the statutory time limits, which start to run from the date of the original decision. Receivability *ratione materiae*: The failure to comply with the statutory time limit to request management evaluation of a decision renders the challenge of that decision before the Tribunal

irreceivable. Administrative decision: An expression of intention to perform an administrative act is not constitutive of a challengeable administrative decision as per the established definition, as it has no direct legal effect on an Applicant's rights.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Belkhabbaz

Entity

OAJ

Case Number(s)

UNDT/GVA/2014/18

UNDT/GVA/2015/153

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Apr 2016

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Disciplinary matters / misconduct

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Applicable Law

Administrative Instructions

- ST/AI/371

Staff Rules

- Rule 11.2(c)
- Rule 11.2(d)

UNDT Statute

- Article 8.1(b)
- Article 8.1(d)(i)

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2015/046

2013-UNAT-304

2015-UNAT-520

2010-UNAT-079

2012-UNAT-196

2012-UNAT-271

2014-UNAT-406

2014-UNAT-402

2013-UNAT-349