

UNDT/2017/061, Mbok

UNAT Held or UNDT Pronouncements

The Tribunal held that MONUSCO's 17 October 2014 inter-office memorandum unambiguously informed the Applicant of the mission's decision to end his appointment, which at this point was a continuing appointment, by separating him from service on 24 October 2014. The Tribunal held that the 17 October 2014 inter-office memorandum was an administrative decision because it had a direct and adverse impact on the Applicant's contractual status and had direct legal consequences for him. The Tribunal concluded that the FPD/DFS response of 31 October 2016 was a reiteration of the 17 October 2014 decision received by the Applicant. Thus, it was not an appealable administrative decision. The Tribunal held that the application was time-barred because the 17 October 2014 inter-office memorandum informed the Applicant of the administrative decision to curtail his continuing appointment. Consequently, he should have requested management evaluation on or before 16 December 2014 but did not do so until 3 January 2017. The Tribunal also held that the Applicant failed to articulate any exceptional circumstances justifying the delay.

Decision Contested or Judgment/Order Appealed

Termination of the Applicant's continuing appointment.

Legal Principle(s)

When a staff member submits requests to the Administration on several occasions, only the first decision of refusal is appealable, and this appeal must be lodged within the time limits which run from the moment of the first decision of refusal. Subsequent decisions of refusal by the Administration are merely confirmative decisions that cannot be appealed. An application is receivable where the applicant submits a request for management evaluation within the applicable time limit, which

is “60 calendar days from the date on which the staff member received notification of the administrative decision to be contested”.

Outcome

Dismissed as not receivable

Outcome Extra Text

The application was not receivable *ratione materiae* and *ratione temporis*.

Full judgment

[Full judgment](#)

Applicants/Appellants

Mbok

Entity

UNDP

Case Number(s)

UNDT/NBI/2017/022

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

24 Jul 2017

Duty Judge

Judge Izuako

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Separation from service

Termination (of appointment)

Applicable Law

Staff Rules

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

UNDT RoP

- Article 7.1(a)

UNDT Statute

- Article 8.1(d)(i)

Related Judgments and Orders

2018-UNAT-824