

UNDT/2018/035, Bozic

UNAT Held or UNDT Pronouncements

Making a determination as to what constitutes a technical body is not a function of the Dispute or Appeals Tribunals. The overarching import of staff rule 11.2(a) read together with the UNDT Statute establishes the obligation of seeking management evaluation prior to invoking the jurisdiction of the Dispute Tribunal as a rule. That controlling element for the status of “technical body” in the sense of staff rule 11.2(b), is designation by the Secretary-General. Absent designation by the Secretary-General, ICSC is not to be deemed a technical body for the purpose of exempting the impugned decision from the management evaluation requirement. Maintaining the state of uncertainty regarding “technical bodies” impedes staff members’ right to access to court granted to them under the UNDT Statute, is not consistent with United Nations standards of the rule of law and certainly is not conducive to economy of proceedings. Although staff rule 11.2 and art. 8 of UNDT Statute require only “requesting” management evaluation and not actually obtaining it, the Appeals Tribunal stressed the obligation to await management evaluation, which process provides the Administration an opportunity to correct any errors in an administrative decision and resolve disputes without the necessity to involve judicial review. The application was filed without awaiting the result of management application and was dismissed as not receivable.

Decision Contested or Judgment/Order Appealed

The Applicant was requesting the rescission of the decision to implement a post adjustment change in the Geneva duty station which resulted in a pay cut. The Applicant also sought compensation for any loss accrued.

Legal Principle(s)

The exercise of discretion in reliance on technical bodies might be subject to judicial review only indirectly, through impact that such advice had on individual decisions.

Outcome

Dismissed as not receivable

Outcome Extra Text

The application, which had been filed without awaiting the result of management evaluation (or expiry of the time limit for it), remained not receivable also after the management evaluation had been issued. Such a situation, for an applicant who wished to pursue his or her claim before the Dispute Tribunal, called for a new filing made in accordance with the applicable time limits.

Full judgment

[Full judgment](#)

Applicants/Appellants

Bozic

Entity

UN-WOMEN

Case Number(s)

UNDT/NBI/2017/105

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

8 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8