

UNDT/2019/053, Fortis

UNAT Held or UNDT Pronouncements

Receivability. The Applicant took no action to challenge the payment made to his wife, and the collection that would necessarily follow, within the 60 day period provided for in Staff Rule 11.2. At the time of submitting his request for management evaluation on 23 June 2017, the said deadline had expired several months ago. The Tribunal finds therefore concluded that the application is irreceivable rationae materiae (Eggesfield 2014-UNAT-402) concerning the recovery by the Administration of the payment of EUR 7,000 made to the Applicant's wife. The application is also irreceivable rationae materiae in that it challenges the recovery by the Administration of the family allowances paid to the Applicant for the year 2015 and for which he has not submitted sufficient supporting evidence. Since the decision to claim the overpayment was notified to the applicant on 24 April 2017 through his counsel, the Applicant's request for management evaluation, dated 23 June 2017, was submitted within the 60-day time limit provided for in Article 11.2 of the Staff Rules. Likewise, the application was filed before the Tribunal within 90 days of the notification of the response to the request for management evaluation provided for in Article 8.1(d)(i)(b) of the Statute of the Tribunal. The application is therefore receivable in this regard. Consideration on the merits. The very notion of overpayment is based on the payment by the Organization of an amount greater than that to which the staff member was entitled. According to section 2.2 of Administrative Instruction ST/AI/2009/1, "[a]n overpayment gives rise to recovery upon written notice from the office responsible for calculating and administering the service. The Organization is entitled to correct erroneous decisions and to recover sums paid to officials in error (see in particular). In view of the foregoing, the Tribunal considered that the decision to claim from the Applicant the sum of CHF 11,996.49 as an overpayment was not unlawful and that, in these circumstances, there was no need to examine the applicant's claim for compensation.

Decision Contested or Judgment/Order Appealed

The Applicant contests the request for reimbursement of CHF 11,996.49 sent to him by the Administration for overpayment of his final emoluments.

Legal Principle(s)

Staff rule 11.2 requires officials, as a first step in the formal challenge process, to submit the challenged decision to management evaluation within 60 days of notification. Also, Article 8.1 (c) of the Statute of the Tribunal and Article 7.1 (a) of its Rules of Procedure provide that management evaluation of administrative decisions is a sine qua non for the receivability of applications to the Tribunal. Finally, Article 8.1 (d) (i) (b) of the Statute of the Tribunal provides that the request must be filed before the Tribunal within 90 days of the response to the request for management evaluation or of the expiration of the time limit for the Administration to respond. The Organization has the right to correct erroneous decisions (Cranfield UNAT-2013-367) and to recover sums paid to officials in error (see in particular Aliko 2015-UNAT-539, para. 37).

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fortis

Entity

UNOG

Case Number(s)

UNDT/GVA/2017/094

Tribunal

UNDT

Registry

Geneva

Date of Judgement

11 Apr 2019

Duty Judge

Judge Bravo

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Applicable Law

Administrative Instructions

- ST/AI/2009/1

Staff Rules

- Rule 11.2
- Rule 3.16

UNDT RoP

- Article 7.1(a)

UNDT Statute

- Article 2
- Article 8.1

Related Judgments and Orders

2015-UNAT-539

2013-UNAT-367