

UNDT/2019/165, Gelsei

UNAT Held or UNDT Pronouncements

It was uncontested that a) the Applicant should have filed his application by 4 September 2019 (Geneva time) and b) he only filed it on 5 September 2019. The Applicant's Counsel argues that "technical difficulties" and an "internal oversight" prevented OSLA from timely filing the application. The Tribunal noted that the CCMS records showed that the application was filed on 5 September 2019 at 1.01 p.m. (Geneva time). Also, the screenshot of the "error message" provided by the Applicant did not have a timestamp or any other element proving that there was an effective attempt to timely file the application, namely by 4 September 2019. The screenshot did not even refer to the name of the Applicant to allow the Tribunal to conclude that the "error message" was related to a failed attempt to timely file the application. The Tribunal noted that the Applicant's Counsel recognized it was not possible to file the application on time due to an "an internal oversight" but provided no proper and convincing explanation in relation to what sort of problems OSLA faced. The Tribunal found that the reasons provided by the Applicant and or his Counsel did not support granting a time-limit waiver. The Tribunal also concluded that the Applicant's Counsel failed to demonstrate the existence of "exceptional circumstances" to justify the late filing of the application.

Decision Contested or Judgment/Order Appealed

The Applicant contested two disciplinary sanctions imposed on him by the United Nations High Commissioner for Refugees.

Legal Principle(s)

The Tribunal is competent to review *ex officio* its own competence or jurisdiction *ratione personae*, *ratione materiae*, and *ratione temporis* (Pellet 2010-UNAT-073 O'Neill 2011-UNAT-182 Gehr 2013-UNAT-313 Christensen 2013-UNAT-335). Whether

a deadline is missed by several minutes, several hours or several days is irrelevant (Ruger 2016-UNAT-693) and the principle of legal certainty requires that deadlines must be respected (Hijaz 2010-UNAT-055, Christensen 2012-UNAT-218).

Outcome

Dismissed as not receivable

Outcome Extra Text

Judgment reversed by the Appeals Tribunal (Gelsei 2020-UNAT-1035)

Full judgment

[Full judgment](#)

Applicants/Appellants

Gelsei

Entity

UNHCR

Case Number(s)

UNDT/GVA/2019/052

Tribunal

UNDT

Registry

Geneva

Date of Judgement

20 Nov 2019

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Applicable Law

UNDT RoP

- Article 7.5

Related Judgments and Orders

2010-UNAT-073

2011-UNAT-182

2013-UNAT-313

2013-UNAT-335

2016-UNAT-693

2010-UNAT-055

2012-UNAT-218