

UNDT/2020/179, Tanifum

UNAT Held or UNDT Pronouncements

The fact that the application was filed on 25 June 2019, a day after the deadline, was not disputed. The contested decision was sent to the Applicant on 25 March 2019, though he maintained that he saw it on 26 March 2019. Even if the Applicant considered 26 March 2019 to have been the date of receipt of the contested decision, the deadline for filing the application would still have been Monday, 24 June 2019. The argument that the Respondent should be considered to have consented to the jurisdiction of the Court since he failed to raise the jurisdictional challenge in time was found to be unsustainable since the law doesn't prescribe the time within which to raise the challenge. The argument that the interest of justice would be served by accepting the application as receivable on exceptional grounds, which were that the Applicant only allowed the disciplinary procedure to continue in the interest of justice with the hope that he would be cleared, but that the wrong assessment of the evidence by the Respondent led to the application, were found to be without merit since a determination on receivability must be made without regard to the merits of the case. Moreover, the Dispute Tribunal could not waive the deadline for filing time on its own motion. The principle of forum prorogatum, which was alleged by the Applicant to exist in the practice of the ICJ, was held to not form part of the internal law of the United Nations. As the judgment made no mention of the specific details of the allegations against the Applicant, the Applicant's argument that the publication of his name in the judgment would cause him reputational damage was found unsustainable. Related

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to abolish his post and separate him from the Organization on grounds of non-renewal of his contract.

Legal Principle(s)

Article 8.1(d)(ii) of the Dispute Tribunal's Statute provides that an application is receivable if filed within 90 calendar days of the staff member's receipt of the administrative decision, in cases where a management evaluation of the contested decision is not required. The receivability of an application is governed by statute and time limits are strictly enforced without regard to the merits of the case. It is trite law that the United Nations is governed by its internal rules and regulations and not the laws of any other Organization unless it adopts such laws as part of its internal law. Article 11.6 of the UNDT Statute and art. 26 of the UNDT Rules of Procedure require publication and transparency of UNDT judgments.

Outcome

Dismissed as not receivable

Outcome Extra Text

The application was filed a day late and since the Applicant did not request an extension of the deadline for filing it, it was not receivable *ratione temporis*.

Full judgment

[Full judgment](#)

Applicants/Appellants

Tanifum

Entity

UNON

Case Number(s)
UNDT/NBI/2019/087
Tribunal
UNDT
Registry
Nairobi
Date of Judgement
16 Oct 2020
Duty Judge
Judge Tibulya
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Jurisdiction / receivability (UNDT or first instance)
Temporal (ratione temporis)
Applicable Law
UNDT RoP

- Article 34(b)

UNDT Statute

- Article 8.1(d)(ii)