

UNDT/2022/119, Melbiksis

UNAT Held or UNDT Pronouncements

The Applicant contests his non-selection and being found not suitable for the position advertised under JO 18186. He identified as the contested decision the Management Evaluation Unit's response dated 24 March 2021. However, a management evaluation response is not a judicially reviewable administrative decision. Accordingly, the application is not receivable *ratione materiae*. The above notwithstanding, the Tribunal recalls that it falls under its competence “to individualize and define the administrative decision impugned by a party and identify what is in fact being contested and so, subject to judicial review”. Therefore, “[i]t is the role of the Dispute Tribunal to adequately interpret and comprehend the application submitted by the moving party, whatever name the party attaches to the document, as the judgment must necessarily refer to the scope of the parties’ contentions”. Having examined the case record, the Tribunal considers that the Applicant is essentially contesting his non-selection for the position advertised via the aforementioned JO, which was the object of a first management evaluation request on 29 January 2021 of which he received a response on 24 March 2021. Art. 8 of the Dispute Tribunal’s Statute provides that the Applicant has 90 days from the management evaluation response to follow with an application before the Tribunal, or 90 days from the expiry of the relevant response period for the management evaluation if no response to the request was provided. Considering that the management evaluation response was issued on 24 March 2021, the Applicant had 90 days from that date to file an application before this Tribunal. This deadline expired on 22 June 2021. The instant application, however, was only filed on 9 September 2021. Accordingly, the application is not receivable *ratione temporis*.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to select him for the position of External Relations Officer in Pretoria (“JO 18186”).

Legal Principle(s)

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Melbiksis

Entity

UNHCR

Case Number(s)

UNDT/GVA/2021/052

Tribunal

UNDT

Registry

Geneva

Date of Judgement

7 Nov 2022

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Subject matter (ratione materiae)

Temporal (ratione temporis)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT Statute

- Article 2.1
- Article 8.1(d)(i)(a)
- Article 8.1(d)(i)(b)

Related Judgments and Orders

UNDT/2016/021

2017-UNAT-786

2020-UNAT-1003

2015-UNAT-562

2014-UNAT-481

2017-UNAT-806

2019-UNAT-917

2012-UNAT-238

2017-UNAT-765

2018-UNAT-876