

UNDT/2022/124, Haroun

UNAT Held or UNDT Pronouncements

There was no evidence on record of a management evaluation request submitted by the Applicant. Instead, the instant application was preceded only by an ME request made in October 2021, by a colleague of the Applicant, one Mr. AA. The Tribunal found that it was apparent however, that the Applicant considered the said ME request to have been made on his behalf as one of the affected members of the UNAMID national staff. The ME request was submitted more than four years after the Applicant received notification of the administrative decision being contested. The application was accordingly not receivable on grounds that there was no timely ME request. The conclusion the Tribunal drew from the wording of the application is that it was intended to be a representative claim brought by the Applicant on behalf of other staff members. The Dispute Tribunal does not have jurisdiction to hear representative claims. Even if the application could be interpreted as intended to relate to the Applicant as an individual, it failed to precisely identify how the decision challenged amounted to non-compliance with his own identified terms of appointment or contract of employment individually. The contested decision referred to in the application was the letter issued on 28 August 2021. However, it reiterated a 2016 decision. The instant application was not filed until February 2022. It was therefore not receivable *ratione temporis*.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application with the Dispute Tribunal contesting what he described as “8 outstanding claims for 4000 former UNAMID national staff members and the claims were refuted by UNAMID management on 28 August 2021”.

Legal Principle(s)

The grounds for receivability are governed by the regulatory framework as interpreted in binding judgments of the Appeal's Tribunal. Accordingly, it is incumbent on applicants seeking justice on the merits, to ensure that their applications are made in a manner that qualifies to be heard by the Dispute Tribunal. A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested. This deadline may be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General. The timely submission of the management evaluation ("ME") request is critical in that the Dispute Tribunal's jurisdiction in non-disciplinary matters is limited to determining applications that are preceded by timely ME requests. Article 2.1(a) of the Statute of the Dispute Tribunal makes clear that the Tribunal is competent to hear and pass judgement on "an application filed by an individual." The purpose of the application must be "to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment." Administrative decisions are characterized by the fact that they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences. Established Appeals Tribunal jurisprudence underscores that the Dispute Tribunal does not have jurisdiction to hear representative claims. Appeals Tribunal jurisprudence holds that a staff member is required to clearly identify the administrative decision which is contested. Article 8(4) of the Dispute Tribunal's Statute provides that "an application shall not be receivable if it is filed more than three years after the applicant's receipt of the contested administrative decision."

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Haroun

Entity

UNAMID

Case Number(s)

UNDT/NBI/2022/018

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

17 Nov 2022

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

TEST -Rename- Benefits and entitlements-45

Personal (ratione personae)

Temporal (ratione temporis)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Staff Rules

- Rule 11.2(c)

UNAT Statute

- Article 2.1(a)

UNDT Statute

- Article 8.1(c)
- Article 8.4

Related Judgments and Orders

2018-UNAT-824

2014-UNAT-481

2016-UNAT-657

2019-UNAT-969