

UNDT/2023/062, Rodriguez Santorum

UNAT Held or UNDT Pronouncements

The United Nations Secretary-General is not the Chief Administrative Officer of IOM, and IOM has not concluded a special agreement with the Secretary-General accepting the Dispute Tribunal's jurisdiction. Instead, IOM falls under the jurisdiction of the Administrative Tribunal of the International Labour Organization.

As the Applicant's request for management evaluation was not filed before submitting the application to the Dispute Tribunal in the present case, the Tribunal does not have the necessary subject-matter jurisdiction under staff rule 11.2. The challenge against the decision of United Nations Health and Life Insurance Section is therefore not receivable *ratione materiae*

Decision Contested or Judgment/Order Appealed

The Applicant, a staff member of the International Organization for Migration ("IOM"), filed an application contesting the rejections of his requests for after-service health insurance by (a) IOM and (b) the Health and Life Insurance Section in the United Nations Secretariat.

Legal Principle(s)

Pursuant to arts. 2.1 and 2.5 of the Statute of the Dispute Tribunal, the Tribunal is only competent to hear and pass judgment on applications against (a) the Secretary-General as the Chief Administrative Officer of the United Nations, or (b) another agency, organization or entity, which has concluded a special agreement with the Secretary-General of the United Nations to accept the terms of the jurisdiction of the Dispute Tribunal, consonant with the Statute.

The Tribunal notes that under staff rule 1.2, a mandatory first step in a case like the present one, which does not concern a decision (a) taken by a technical body, as determined by the Secretary-General, or (b) following the completion of a disciplinary process, is to file a request for management evaluation *before* submitting an application to the Dispute Tribunal. Otherwise, the application to the Dispute Tribunal is not receivable (in line herewith, see the consistent jurisprudence of the Appeals Tribunal in, for instance, *Chriclow* 2010-UNAT-035).

The Appeals Tribunal has stated that the purpose of the management evaluation is to “afford the Administration the opportunity to correct any errors in an administrative decision so that judicial review of the administrative decision is not necessary” (see *Farzin* 2019-UNAT-917, para. 40, and in line herewith, for instance: *Kuadio* 2015-UNAT-558; *El-Shobaky* 2015-UNAT-564; *Kalashnik* 2017-UNAT-803).

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Rodriguez Santorum

Entity

IOM

Case Number(s)

UNDT/NY/2022/047

Tribunal

UNDT

Registry

New York

Date of Judgement

22 Jun 2023

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Health (medical) and/or dental insurance

Benefits and entitlements

Applicable Law

UNDT Statute

- Article 2.5
- Article 2.1

Related Judgments and Orders

2010-UNAT-035

2019-UNAT-917

2015-UNAT-558

2015-UNAT-564

2017-UNAT-803