

UNDT/2023/127, Malfitano

UNAT Held or UNDT Pronouncements

The Applicant did not seek a waiver of suspension of the deadline facing her, nor did she meet the deadline. For this reason, the application is not receivable *ratione temporis* as it is time-barred.

Decision Contested or Judgment/Order Appealed

The Applicant contested the denial of her conducting the evaluations of her staff based on a complaint letter that was submitted after the development of the Performance Management and Development of one international staff and that was never disclosed to her.

Legal Principle(s)

The Tribunal may only suspend or waive the deadlines for filing an application in exceptional circumstances.

Only events beyond an applicant's control and actually preventing him or her from pursuing legal action may be regarded as "exceptional circumstances" warranting such a waiver.

If an applicant requests a suspension, waiver or extension of the time limits, then the applicant bears the burden to prove any circumstances beyond her/his control that would have the effect of preventing to act within the statutory time limits. The circumstances should meet the test of untypicality or unusualness.

An applicant or appellant cannot submit a request for a waiver of the time limits for filing a late application or appeal along with his/her untimely (or belated) application or appeal.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Malfitano

Entity

UNDP

Case Number(s)

UNDT/NBI/2023/050

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

16 Nov 2023

Duty Judge

Judge Waktolla

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Subject matter (ratione materiae)

Temporal (ratione temporis)

Jurisdiction / receivability (UNAT)

Applicable Law

UNDT Statute

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

Related Judgments and Orders

2012-UNAT-218

2016-UNAT-693

2010-UNAT-029

2020-UNAT-1035

2017-UNAT-731

2011-UNAT-184