

UNDT/2024/011, Bukhari

UNAT Held or UNDT Pronouncements

Having received the management evaluation response on 25 October 2022, the Applicant had 90 days to file an application in accordance with art. 8(1)(d)(i)(a) of the UNDT Statute, that is, by 23 January 2023, but failed to do so. Therefore, insofar that the application is premised on the management evaluation response of 25 October 2022, it is not receivable *ratione temporis*.

In respect to the 4 October 2022 decision, the Applicant did not request management evaluation of said decision and the application is therefore not receivable *ratione materiae*.

To the extent that the Applicant received the 5 February 2024 notification as a new decision, he has not sought management evaluation of it.

Given that the substantive application is irreceivable, the Applicant's request for interim measures during the proceedings, as governed by art. 10.2 of the Statute of the Dispute Tribunal and as also reflected in art. 14 of the Tribunal's Rules of Procedure, has no basis and is accordingly rejected.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to change his pay status and his placement on Special Leave Without Pay initially from 26 October 2022, subsequently from 16 November 2022, and recently from 16 February 2024.

The Applicant also filed a motion for interim measures, requesting for the suspension of implementation of the contested decision during the pendency of his substantive application, pursuant to art. 10.2 of the Tribunal's Statute.

Legal Principle(s)

A party may move for summary judgment when there is no dispute as to the material facts of the case and a party is entitled to judgment as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgment is appropriate.

An application shall be receivable if the application is filed within 90 calendar days of the applicant's receipt of the response by management to his or her submission.

The Dispute Tribunal shall not suspend or waive the deadlines for management evaluation.

An application shall be receivable if an applicant has previously submitted the contested administrative decision for management evaluation, where required.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Bukhari

Entity

UNHCR

Case Number(s)

UNDT/NBI/2024/010

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

4 Mar 2024

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Time limit

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Management Evaluation

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT RoP

- Article 14
- Article 8.3

UNDT Statute

- Article 9
- Article 8.1(d)(i)(a)
- Article 8.1(c)