



**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2021-UNAT-1174

**Hoyce Temu  
(Appellant)**

**v.**

**Secretary-General of the United Nations  
(Respondent)**

**JUDGMENT**

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Before:	Judge Sabine Knierim, Presiding Judge Martha Halfeld Judge Dimitrios Raikos
Case No.:	2020-1496
Date:	29 October 2021
Registrar:	Weicheng Lin

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Counsel for Appellant:	Julia Kyung Min Lee, OSLA
Counsel for the Secretary-General:	Angélique Trouche

**JUDGE SABINE KNIERIM, PRESIDING.**

1. Ms. Hoyce Temu, a Communications Specialist with the United Nations Development Programme (UNDP) in Tanzania, filed an application before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) contesting the decision to separate her from service while she was on maternity leave, and to deny her request for maternity leave and sick leave. In Judgment No. UNDT/2020/172 on Receivability (the impugned Judgment), UNDT dismissed Ms. Temu's application as not receivable *ratione temporis*. Ms. Temu now appeals the UNDT Judgment.
2. On appeal, we uphold the UNDT Judgment and dismiss the appeal.

**Facts and Procedure**

3. Ms. Temu (the Appellant) joined the Country Office of UNDP in Tanzania as a Communications Specialist on a fixed-term appointment (FTA) at the NO-C Grade, Step-1 level in 2014.
4. On 18 September 2017, following an investigation, Ms. Temu was charged with misconduct and was subjected to a disciplinary process.
5. On 16 July 2018, Ms. Temu was notified of additional disciplinary charges.
6. On 3 September 2018, Ms. Temu went on maternity leave for 16 weeks expiring on 21 December 2018.
7. On 15 November 2018, Ms. Temu informed UNDP of the death of her newborn child. On the same day, Ms. Temu was informed by a Human Resources Officer that she would be entitled to the full duration of maternity leave notwithstanding the death of her child in accordance with UNDP policy on maternity leave.
8. On 18 December 2018, the Associate Administrator of UNDP imposed on Ms. Temu the disciplinary measure separation from service with compensation in lieu of notice and without termination indemnity pursuant to Staff Rules 10.1(a) and 10.2(a)(viii), effective upon receipt of the sanction letter.

9. The letter was e-mailed to both Ms. Temu and her counsel on 18 December 2018. On 24 December 2018, her counsel acknowledged receipt.

10. On 4 January 2019 Ms. Temu wrote to the Deputy Country Director of Operations, UNDP requesting extension of her FTA for medical reasons following the expiry of her maternity leave on 21 December 2018. On 8 January 2019, the Deputy Country Director of Operations replied to this request as follows:

[...] the Associate Administrator's decision to separate [you] for disciplinary reasons results in [you] no longer benefitting from rights that can only [be] afforded to staff members, including maternity and sick leave, as of the date that decision became effective -- 19 December 2018.

11. On 21 February 2019, Ms. Temu submitted a request for management evaluation of the decision to separate her from service while on maternity leave and to deny her request for maternity leave and sick leave beyond 19 December 2018.

12. On 25 March 2019, Ms. Temu challenged the decision to separate her from service in lieu of notice and without termination indemnities before the UNDT in a related case number UNDT/NBI/2019/034. On 2 April 2019, UNDP sent an e-mail to Ms. Temu, her counsel, and OSLA attaching the management evaluation response, dated 1 April 2019, which dismissed Ms. Temu's request.

13. On 3 April 2019, the Respondent filed a motion for summary judgment in the related case UNDT/NBI/2019/034 on the basis of it being not receivable *ratione temporis*. This Motion was rejected by the UNDT.

14. On 2 July 2019, through her counsel at OSLA, Ms. Temu filed the relevant application before the UNDT.<sup>1</sup> Ms. Temu specified in her application that the contested decision was that of 8 January 2019 denying her request for maternity leave and sick leave and the decision of 18 December 2018 to separate her from service while she was on maternity leave (which she

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<sup>1</sup> Ms. Temu filed two applications before the UNDT. One application was filed on 25 March 2019 and challenged the 18 December 2018 decision to separate her from service *on grounds of misconduct*. This application was registered by the UNDT in Nairobi as UNDT/NBI/2019/034 and is **not** the subject of the arguments set forth in this appeal. In that case the UNDT issued Order No. 2019-NBI-049 rejecting the Respondent's motion for summary judgment on grounds that application was filed out of time. The UNDT issued Judgment No. UNDT/2021/090 on 28 July 2021 and dismissed Ms. Temu's application. This has been appealed to UNAT.

indicated she was notified of on 24 December 2018). In her application she requested the UNDT to rescind both decisions and extend her appointment for the purposes of exhausting maternity and sick leave entitlements.

15. Also on 2 July 2019, the Secretary-General filed a motion for summary judgment on grounds her application was filed out of time and should be dismissed as not receivable *ratione temporis*. Specifically, the Respondent argued that Ms. Temu's 90-day deadline to file her application was 1 July 2019. Her filing on 2 July 2019 was a day late.

16. In Ms. Temu's comments to the motion for summary judgment she argued that the Administration was aware she was located in Tanzania and sent the e-mail transmitting the MEU response on 2 April 2019 at 2:03 p.m. New York Time, which was 9:03 p.m. in Tanzania and 8:03 p.m. in her counsel's time zone, which was well after close of business in both her and her counsel's locations and as such, Ms. Temu and her counsel did not become aware of the e-mail transmitting the management evaluation response until 3 April 2019. She argued it was not reasonable to expect Ms. Temu or her counsel to be monitoring their e-mails 24 hours a day for a potential transmittal e-mail. She argued it is reasonable that she and her counsel received the e-mail the next day on 3 April, the UNDT Rules of Procedure and Statute do not provide for specific means of service, and she and her counsel did not effectively receive or become aware of the UNDP's response until 3 April 2019. She further argued that the Respondent had failed to provide any evidence to the contrary that either she or her counsel received or were aware of the e-mail and response sooner than 3 April 2019. Ms. Temu concluded that as the 90-day deadline began running on 3 April 2019 and expiring on 2 July 2019 which is when she submitted her application to the UNDT, her application was therefore timely. In the alternative, Ms. Temu requested a waiver of the time limit based on exceptional circumstances, namely, her pregnancy complications, the loss of her newborn child, and her ongoing medical condition

17. With regard to the application and motion for summary judgment, the UNDT issued Judgment on Receivability No. UNDT/2020/172 on 30 September 2020 (the impugned Judgment, which is the subject of this appeal) in which the UNDT dismissed Ms. Temu's application as not receivable *ratione temporis*, concluding that she filed her application before the UNDT one day late. The UNDT noted there was no long-term outage of her electrical supply or internet service to prevent her from seeing the e-mail before the end of business in the New York time zone. The UNDT further held that one day's delay is not

*de minimus*. The UNDT further rejected her request for waiver of time limit noting that the request after the fact show that the matter of the deadline was an afterthought and that the request needed to have been filed prior to the deadline and not after. Regarding Ms. Temu's reference to the recently amended UNDT Statute, this amendment was intended to address breaches in deadlines in cases of technical problems where the time of arrival on either side may be unclear. No allegation of technical difficulties was proffered. Furthermore, the UNDT rejected the existence of exceptional circumstances, noting that any description of her illness did not address the need for more time to file her application.

18. On 30 November 2020, Ms. Temu filed an appeal with UNAT.

19. On 2 February 2021, the Secretary-General filed his answer.

### **Submissions**

#### **Ms. Temu's Appeal**

20. Ms. Temu requests the Appeals Tribunal to vacate the impugned Judgment, to find her application to be receivable, and to remand her case to the UNDT for a determination on the merits.

21. Ms. Temu argues that the UNDT erred in law by failing to address her arguments that her application was timely filed. It is undisputed that the transmittal e-mail from UNDP was sent 2 April 2019 at 2:03 p.m. New York time which was 9:03 p.m. in Ms. Temu's time zone and 8:03 p.m. in her counsel's time zone—well after close of business in both the location of Ms. Temu and her counsel. It is not reasonable to expect her or her counsel to remain on standby for 24 hours to check for e-mails. Ms. Temu argues that UNAT jurisprudence requires what Ms. Temu describes as effective knowledge, referencing the *Rahman* case.<sup>2</sup> The Respondent thus must show that the Applicant had actual knowledge of the outcome of her request for management evaluation on 2 April 2019. The date and timing of the e-mail is clear evidence that notification and that actual knowledge occurred on 3 April 2019, not 2 April 2019. The UNDT did not address this reasoning in its deliberations. The UNDT treated as an established fact that the application was out of time commencing its "Deliberations" section stating as follows: "The UNDT considers that it cannot condone delay

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<sup>2</sup> *Rahman v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-260.

or adjust the time permitted for filing an application ...” The Judgment predetermined the filing was late without any discussion or consideration of Ms. Temu’s arguments. The UNDT only took note of the date the e-mail was sent which is inconsistent with UNAT jurisprudence in *Ali*<sup>3</sup>. The relevance of timing to the issue of receivability mandates that when a management evaluation response is sent by e-mail long after working hours, as is the present case, such response must be deemed to have been received the next day as it would be unreasonable to expect staff to remain on standby.

22. The UNDT also erred in fact in concluding there were no exceptional circumstances to warrant a waiver of deadline. The UNDT considered various extraneous and irrelevant facts that were not plead by the Appellant. It was not relevant nor plead that there were technical difficulties or power outages. Rather the Appellant argued that the effective date of service of the REM response was 3 April 2019 because the e-mail containing the outcome was sent at 9:03 p.m. the night prior when neither she nor her counsel could reasonably be expected to check e-mails. One of the reasons why she also did not check her e-mail at night is because she was undergoing medical care following the loss of her newborn child. The UNDT confusingly refers to the proposed amendment of the UNDT’s Statute and Rules of Procedure relating to technical difficulties when analysing the existence of exceptional circumstances. The Appellant had not made any reference to this amendment in her pleadings as a reason for her waiver request.

23. The UNDT further erred as the impugned Judgment provided that a “very debilitating illness which prevents ordinary physical and mental activity would be exceptional” and erroneously found that “although there is a claim of illness, the description of the illness does not address the need for more time to file the application and no technical difficulties are mentioned.”<sup>4</sup> In reaching this conclusion the UNDT failed to consider Ms. Temu’s loss of her newborn baby following which she suffered major depressive disorder, anxiety, and stress that impeded her daily activities. She was still receiving medical care in April 2019 when the e-mail communicating the decision on her request for management evaluation was sent. Further evidence of the Appellant’s medical treatments were filed with the UNDT in her related case (UNDT/NBI/2019/034) which the UNDT joined with the current case during the

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<sup>3</sup> *Ali v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-773.

<sup>4</sup> Impugned Judgment, para. 20.

case management hearing on 8 September 2020. No reasonable, objective tribunal would find that the description of the Appellant's illness under the circumstances would not be exceptional to justify the late filing of her application by one day. Thus, the UNDT erred on a question of fact, resulting in a manifestly unreasonable decision.

24. The UNDT erred in law in finding that a request for waiver must be made prior to the deadline's expiration. The UNDT failed to identify and apply the UNAT jurisprudence set forth in *Habash*<sup>5</sup>, *Choi*<sup>6</sup>, *Sera*<sup>7</sup>, *Cohen*<sup>8</sup> and *Deng*<sup>9</sup>, among others, that granted requests for waiver of time limit that were requested after the filing deadline.

25. As stated above, even if the UNAT deems the application was filed late, the UNDT erred on a question of fact by finding there were no exceptional circumstances justifying the one-day lateness but also erred on a question of law in disregarding UNAT jurisprudence permitting and granting waiver requests made after the expiry of the deadline.

#### **The Secretary-General's Answer**

26. The Secretary-General requests this Tribunal to uphold the impugned judgment and dismiss the appeal in its entirety.

27. In support, the Respondent submits that the UNDT correctly found Ms. Temu's application was filed a day late and pointed out the relevance of the date indicated on the e-mail to determine the receipt of its notification. There is no dispute that the e-mail communicating the response to the request for management evaluation is dated 2 April 2019 and this is the only element available to both parties to determine the exact date of the e-mail. The sender of an e-mail cannot reasonably be expected to know the location of the recipients or when the e-mail was received. The e-mail transmitting the response asked for acknowledgement of receipt, which was never provided. Thus, the date of the e-mail is the only reasonable, objective element available to both parties to determine the date for triggering the 90-day deadline.

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<sup>5</sup> *Habash v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 293 (2017).

<sup>6</sup> *Choi v. Secretary-General of the United Nations*, Order No. 238 (2015).

<sup>7</sup> *Sera v. Secretary-General of the United Nations*, Order No. 350 (2019).

<sup>8</sup> *Cohen v. Registrar of the International Court of Justice*, Order No. 268 (2016).

<sup>9</sup> *Deng v. Secretary-General of the United Nations*, Order No. 59 (2011).

28. The UNDT also correctly found that there were no exceptional circumstances to justify the late submission. Article 8(3) of the UNDT Statute establishes that the UNDT may decide in writing upon written request to suspend or waive the deadlines for a limited period of time and only “in exceptional cases”. UNAT has regularly found exceptional circumstances to be those circumstances beyond the applicant’s control that prevented the timely filing. Ms. Temu contends that the UNDT failed to consider that she had lost her new-born child and was under medical care, however, the UNDT expressly mentioned these factors and found that Ms. Temu had not explained how these factors caused her to miss the deadline by one day. The UNDT also gave due consideration to the time zone difference. Given the date of the e-mail Ms. Temu and her counsel could have taken measures to ensure timely filing by 1 July 2019 or request clarification of the deadline in advance if necessary.

29. Furthermore, the UNDT correctly held that the waiver request should have been filed prior to her missing the deadline. Ms. Temu relies on *Gelsei*<sup>10</sup> to support that she need not have filed a waiver prior to the deadline, however, her arguments ignore consistent UNAT jurisprudence requiring a waiver be requested prior to the deadline. *Gelsei* was a unique case whereby the staff member submitted a request after the expiry due to a failure in the electronic filing system on the day of the deadline. This technical failure was unforeseeable to the party and the party’s counsel as they had no ability to control or affect it. Ms. Temu does not allege a technical failure that was out of her control that would warrant the unusual scenario presented in *Gelsei*. Consequently, the UNDT’s findings are correct.

### **Considerations**

#### *The UNDT Judgment*

30. Ms. Temu, in her appeal, has not demonstrated any errors in the UNDT’s finding that her 2 July 2019 application was filed one day late and was thus out of time.

31. It is undisputed that the management evaluation response was e-mailed to both Ms. Temu and her legal representative on 2 April 2019 at 2:03 p.m. New York time which corresponded to 9:03 pm in Ms. Temu’s time zone and at 8:03pm in her counsel’s time zone.

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<sup>10</sup> *Gelsei v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1035.



32. Article 8(1) of the UNDT Statute reads, in part, as follows:

An application shall be receivable if:

...

(d) The application is filed within the following deadlines:

(i) In cases where a management evaluation of the contested decision is required:

a. Within 90 calendar days of the applicant's receipt of the response by management to his or her submission; or

b. Within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices.

33. Ms. Temu filed her request for management evaluation on 21 February 2019, and the UNDP Administration responded on 2 April 2019 by e-mailing its decision dated 1 April 2019 to her and her counsel. As the dispute did not arise at Headquarters, the management evaluation had a 45-day time limit, and the 2 April 2019 response was within that time limit. Consequently, Ms. Temu had to file her application within 90 calendar days of the receipt of said response. According to the clear and unambiguous wording of Article 8(1)(d)(i)(a) of the UNDT Statute, and confirmed by the jurisprudence of the Appeals Tribunal, it is the receipt of the management evaluation which triggers the time limit for filing an application to the UNDT, and not the moment when the staff member or her legal representative could reasonably be assumed to have taken notice of this response.<sup>11</sup>

34. Art. 34 of the UNDT Rules of Procedure provides:

35. Calculation of time limits

The time limits prescribed in the rules of procedure:

(a) Refer to calendar days and shall not include the day of the event from which the period runs;

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<sup>11</sup> *Wilson v. Secretary General of the United Nations*, Judgment No.2020-UNAT-999, para. 9; *Ali v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-773, paras. 19-24; *Samuel Thambiah v. Secretary-General of the United Nations* Judgment No. 2013-UNAT-385, paras. 27-28; and *Odio-Benito v. Secretary-General of the United Nations*, 2012-UNAT-196, para. 18.

36. Ms. Temu and her counsel received the management evaluation response on 2 April 2019 which is “the event” triggering the 90-day time limit for filing an application. Applying Art. 34(a) of the UNDT Rules of Procedure, 2 April 2019, the day of the receipt, is not included in the time limit, but the first day of the 90-day time period was 3 April 2019 (the 28<sup>th</sup> day was 30 April 2019, the 59<sup>th</sup> day was 31 May 2019 and the 89<sup>th</sup> day was 30 June 2019 and so on). Consequently, 1 July 2019 was the 90<sup>th</sup> and last day on which Ms. Temu could have timely filed her application; however, she filed it only on 2 July 2019.

37. Ms. Temu’s reliance on our judgment in *Ali*<sup>12</sup> is misplaced. Ali does not support Ms. Temu’s position, but rather it supports the impugned Judgment because in *Ali*, we made clear at para. 11 (“[t]aking that date of 28 May 2015 ...”) and para. 14 (“Mr. Ali admits that he received the aforementioned response on 28 May 2015 ...”) that it is the date of receipt of the management evaluation response which triggers the time limits for filing an application to the Dispute Tribunal.

38. We also find, like the UNDT, that Ms. Temu has not presented any exceptional circumstances which would be required in order to waive the time limits.

39. Art. 8(3) UNDT Statute provides:

The Dispute Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases. The Dispute Tribunal shall not suspend or waive the deadlines for management evaluation.

40. Ms. Temu references a number of cases in which a request for waiver was granted on an exceptional basis after the filing deadline. While there are situations where a request for a waiver may exceptionally be filed after the time limit has run out, when the circumstances of the case have not allowed the staff member to file such request beforehand, such as a technical failing of the Court Case Management System rendering it impossible to file before the deadline or a medical incapacity on the part of the staff member to file an application etc., we agree with the UNDT that Ms. Temu could and should have filed her request for a waiver before the filing deadline.

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<sup>12</sup> *Ali v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-773.

41. The UNDT did not err in finding that Ms. Temu has not presented any exceptional circumstances. She submits that she was ill when she received the MEU response. However, this is ordinarily not sufficient to demonstrate exceptional circumstances. Such circumstances must normally exist when the time limit runs out. Ms. Temu does not submit sufficient evidence, nor can we see that she was unable to file her application on time (1 July 2019). The reason why the application was filed one day late is that she and her legal representative had a wrong understanding of when a MEU response is “received” by a staff member and therefore miscalculated the 90-day time limit. The Appeals Tribunal has already stated that ignorance is no excuse, and a miscalculation of time limits cannot be accepted as exceptional circumstances under Art. 8(3) UNDT Statute.<sup>13</sup>

*Additional findings of the Appeals Tribunal*

42. To give guidance to the parties and the UNDT, the Appeals Tribunal points out that Ms. Temu’s application against her separation from service is irreceivable for another reason as set out below.

43. In her 2 July 2019 UNDT application, leading to the impugned Judgment now under appeal, Ms. Temu challenges *inter alia* the “decision dated 18 December 2018 ... to separate [her] from service with compensation in lieu of notice and without termination indemnities” and requests “rescission of the disciplinary measure dated 18 December 2018 to the extent that it imposes an immediate separation from service.”

44. However, Ms. Temu had already laid the same issue before the UNDT in her 25 March 2019 application (UNAT Case No. UNDT/NBI/2019/034) which was decided by the UNDT by Order No. 049 (NBI/2019) of 12 April 2019 and UNDT Judgment No. UNDT/2021/090 of 28 July 2021. In this application, Ms. Temu challenged the 18 December 2018 “decision to separate her from service of the Organization on grounds of misconduct with compensation *in lieu* of notice and without termination indemnities”<sup>14</sup> and requested rescission of this decision.

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<sup>13</sup> *Rüger v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-693, para 17; *Amany v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-521, para. 18; *Kissila v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-470, paras. 23-24.

<sup>14</sup> *Temu v. Secretary-General of the United Nations*, Judgment No. UNDT/2021/090, para.2.

45. We do not agree with the UNDT's finding in paras. 2 and 3 of the impugned Judgment that there are two applications concerning two different legal matters because in UNAT Case No. UNDT/NBI/2019/034, Ms. Temu challenged the decision to separate her from service on grounds of misconduct, while in the present application, she challenges the decision to separate her from service while she was on maternity leave.

46. There is no difference between these two applications because they raise identical legal issues. The separation decision is based on the one and only disciplinary sanction dated 18 December 2018. The fact that the administration decided on the matter during Ms. Temu's maternity leave, is a legal argument which could be (and has been) raised within the legal examination of the lawfulness of the separation decision. We note that when the UNDT decided on the 18 December 2018 disciplinary sanction in UNDT Judgment No. UNDT/2021/090, it held that the sanction was lawful but commented that it disapproved of the sanction being issued during the maternity leave.<sup>15</sup> Consequently, the UNDT included this issue in its legal examination.

47. While in her first application, Ms. Temu requests the UNDT to rescind the disciplinary measure, in her second application, she requests *inter alia* "rescission of the disciplinary measure dated 18 December 2018 to the extent that it imposes an immediate separation from service". The second application (now under appeal) therefore is just a part of the first application. The legal goal of Ms. Temu's second application is to prevent the disciplinary sanction to enter into legal force during her maternity leave, in other words, to postpone the implementation of the separation decision to a time when her maternity leave had already ended. However, this goal cannot be reached by such an application to the UN Tribunals.

48. Staff Rule 11.3 (Suspension of action) reads as follows:

(a) Neither the submission of a request for a management evaluation nor the filing of an application with the United Nations Dispute Tribunal shall have the effect of suspending the implementation of the contested administrative decision.

(b) However, where a management evaluation of an administrative decision is required:

(i) A staff member may submit an application requesting the United Nations Dispute Tribunal to suspend the implementation of the contested administrative decision until the management evaluation has been completed and the staff member has received

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<sup>15</sup> *Temu v. Secretary-General of the United Nations*, Judgment No. UNDT/2009/097, para. 70.

notification of the outcome. In accordance with article 2, paragraph 2, of its statute, the Dispute Tribunal may suspend the implementation of a decision where the decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage. The Dispute Tribunal's decision on such an application is not subject to appeal;

(ii) In cases involving separation from service, a staff member may opt to first request the Secretary-General to suspend the implementation of the decision until the management evaluation has been completed and the staff member has received notification of the outcome. The Secretary-General may suspend the implementation of a decision where he or she determines that the contested decision has not yet been implemented, the decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage to the staff member's rights. If the Secretary-General rejects the request, the staff member may then submit a request for suspension of action to the Dispute Tribunal under subparagraph (b)(i) above.

49. See also Art. 8(5) UNDT Statute:

The filing of an application shall not have the effect of suspending the implementation of the contested administrative decision.

50. And Art. 10(2) UNDT Statute:

2. At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

51. It follows from these legal provisions that a staff member who wants to prevent an administrative decision from being implemented has to file a request or application for suspension of action. However, in disciplinary cases, such a request is not receivable as Staff Rule 11.3(b) only applies to administrative decisions where a management evaluation is required, which is not the case for disciplinary sanctions. Ms. Temu cannot circumvent the provisions in the Staff Rules and the UNDT Statute by filing an application in which she requests to postpone the implementation of a disciplinary sanction to a later date.

**Judgment**

52. Ms. Temu's appeal is dismissed and the UNDT Judgment is affirmed.

Original and Authoritative Version: English

Dated this 29<sup>th</sup> day of October 2021.

*(Signed)*

Judge Knierim, Presiding  
Hamburg, Germany

*(Signed)*

Judge Halfeld,  
Juiz de Fora, Brazil

*(Signed)*

Judge Raikos  
Athens, Greece

Entered in the Register on this 4<sup>th</sup> day of January 2022 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar