



**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

ONYANG

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**JUDGMENT ON RECEIVABILITY**

---

**Counsel for the Applicant:**

Self-represented

**Counsel for the Respondent:**

Nicole Wynn, ALS/OHRM

Rosangela Adamo, ALS/OHRM

## **Introduction**

1. The Applicant is serving as a Procurement Assistant at the FS-5 level with the United Nations African Union Mission in Darfur (UNAMID). He filed the current application with the United Nations Dispute Tribunal (UNDT/the Tribunal) on 6 October 2018 contesting a decision from the Office of Human Resources Management (OHRM) not to convoke him to the oral examination for the 2017 Young Professionals Programme (YPP).

2. The Respondent filed a reply on 14 November 2018<sup>1</sup> in which he contests the receivability of the application.

## **Relevant facts**

3. The YPP is designed to recruit junior professionals at the P-1 and P-2 levels through competitive examinations and to provide them with professional development support.<sup>2</sup> The YPP examinations are open to all staff members serving in the General Service and related categories and in the Field Service category, up to and including the FS-5 level who meet certain criteria set out in ST/AI/2012/2/Rev. 1 (Young professional programme).

4. The Applicant applied for the YPP exam under section 1.3 of ST/AI/2012/2/Rev.1 for recruitment to the Professional category. He took the written examination, which consists of a generalized and specialized paper, on 14 December 2017.

5. On 3 May 2018, the Applicant received an email from the YPP team informing him that he had passed the written examination and that he was being convoked to take the oral examination between 21 May and 15 June 2018.

6. By a letter dated 4 May 2018, the Chief, Examinations and Tests Section, OHRM informed the Applicant that the communication of 3 May 2018 had been

---

<sup>1</sup> The Applicant initially filed the application via email on 6 October 2018. He created an account in the Tribunal's eFiling portal and re-filed his application in the portal after close of business on Friday, 12 October 2018. The Registry served the application on the Respondent on Monday, 15 October 2018.

<sup>2</sup> ST/SGB/2011/10 (Young professionals programme).

sent in error and that he had not reached the passing threshold of the YPP written examination and would therefore not be convoked to the oral examination.

7. The Applicant submitted a request for management evaluation to the Management Evaluation Unit (MEU) on 19 May 2018 to contest the decision contained in the letter of 4 May 2018. He also submitted a complaint to the United Nations Ethics Office on the same day. The Ethics Office advised the Applicant to contact the Central Examinations Board, OHRM, since this entity is responsible for reviewing complaints filed by staff members regarding the YPP examination process.

8. On 4 June 2018, the Applicant wrote to the Office of Staff Legal Assistance (OSLA) for advice and guidance in his case.

9. On 21 June 2018, the Applicant received a response to his management evaluation, which upheld the impugned decision.

10. On 11 and 27 July 2018, 22 and 27 August 2018 and 6 September 2018, OSLA informed the Applicant that it would not assist and/or represent him to contest the impugned administrative decision. OSLA advised him on 6 September that he could retain external legal counsel at his own cost or file an application to the UNDT on his own.

11. Between 2 and 17 August 2018, the Applicant engaged in communication with OHRM regarding his test results.

12. On 6 October 2018, he filed the current application.

### **Considerations**

13. Is the application of 6 October 2018 receivable *rationae temporis* pursuant to art. 8.1 of the UNDT Statute?

14. Staff rule 11.4(a) provides that:

A staff member may file an application against a contested administrative decision, whether or not it has been amended by any management evaluation, with the United Nations Dispute Tribunal

within 90 calendar days from the date on which the staff member received the outcome of the management evaluation or from the date of expiration of the deadline specified under staff rule 11.2 (d), whichever is earlier.

15. Art. 8.1(d)(i)(a) of the UNDT Statute provides that in cases where management evaluation of the contested decision is required, an application shall be receivable if it is filed within 90 calendar days of the applicant's receipt of the response from management to his or her request for management evaluation.

16. The Respondent's case is that the application is not receivable *ratione temporis* because the Applicant failed to file an application with the Dispute Tribunal within 90 days of receiving a response to his management evaluation request as required by art. 8.1(i)(a) of the UNDT Statute and staff rule 11.4(a). The Respondent submits that since the Applicant received the response to his management evaluation request on 21 June 2018, his filing deadline was 19 September 2018. However, the Applicant waited until 6 October 2018, which was 107 days later, to file his application.

17. The Applicant indicated on page 4 of his application that he received the response to his management evaluation request on 21 June 2018. Thus, to be in compliance with art. 8.1(d)(i)(a) of the UNDT Statute, the Applicant should have filed his application to the UNDT by 19 September 2018 but he did not do so until 6 October 2018, more than two weeks after the statutory deadline, to file his application.

18. The Tribunal holds that the application is time-barred due to the Applicant's failure to file his application within the established time limits. Although the Applicant makes considerable effort in his application to highlight the amount of time he spent communicating with OSLA, this has no effect on the fact that the application is time barred. It is evident that OSLA informed him as early as 11 July 2018 that it could neither assist nor represent him and on 6 September that he could retain external legal counsel at his own cost or file an application to the UNDT on his own. Instead of the Applicant immediately approaching the Tribunal, he decided to engage OSLA and OHRM in a fruitless back and forth exercise.

19. The United Nations Appeals Tribunal has consistently and strictly enforced the time limits for filing applications and appeals simply because strict adherence to filing deadlines assures the timely hearing of cases and rendering of judgments.<sup>3</sup>

**Judgment**

20. The application is not receivable.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 27<sup>th</sup> day of November 2018

Entered in the Register on this 27<sup>th</sup> day of November 2018

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi

---

<sup>3</sup> *Mezoui* 2010-UNAT-043; *Kissila* 2014-UNAT-470.