



Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

KABEMBELA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
AAS/ALD/OHR

Introduction

1. The Applicant is a former staff member with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA).

2. In the application dated 16 June 2018, he challenges a 30 April 2016 decision not to renew his temporary appointment.

3. The Respondent filed a reply on 18 July 2018 claiming irreceivability *ratione temporis*.

Facts

4. On 18 October 2015, the Applicant joined the Organization on a six-month temporary appointment. The Applicant was selected for his position without the issuance of a job opening, pursuant to the special authorization granted to MINUSCA to effect recruitments on temporary posts in a simplified procedure. This appointment was to expire without notice on 18 April 2016. On 30 April 2016, a Human Resources Officer wrote to the Applicant to notify him that his appointment would be extended until 16 May 2016 to enable separation formalities.¹ On 16 May 2016 the Applicant separated from MINUSCA.²

5. The Applicant invokes contradictions in communications received at the end of April 2016 as to whether his appointment expires due to operational reasons as initially planned, or receives a limited extension for the purpose of check-out. He also relies on his protestations filed with MINUSMA and exchanges with the Office of Ethics and Discipline. None of the communications quoted by the Applicant, however, indicate that deciding the matter of non-extension of his appointment would have been alive beyond May 2016.

6. The Applicant requested management evaluation of the contested decision on 11 March 2018.

¹ Reply annex 1.

² Reply annex 2.

Considerations

7. The Applicant failed to request management evaluation of the contested decision within the 60-day time limit established under staff rule 11.2(c) and art. 8.1(c) of the Dispute Tribunal's Statute. The Applicant's 11 March 2018 request for management evaluation was outside this time frame. It is a trite law that the deadline for requesting management evaluation cannot be waived.³ A receipt of management evaluation which had been requested after the deadline is not capable of resetting the time for challenging an administrative decision by nearly two years. The application is thus belated.

Conclusion

8. The application is rejected as irreceivable.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 13th day of May 2019

Entered in the Register on this 13th day of May 2019

(Signed)

Legal Officer, for,
Abena Kwakye-Berko, Registrar, Nairobi

³ Article 8.3 of the UNDT Statute.