



Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

TEPAMOSE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**SUMMARY JUDGMENT ON
RECEIVABILITY**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

AAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a P-3 Supply Officer with the United Nations Mission in South Sudan (“UNMISS”). He serves on a fixed-term appointment and is based in Juba.
2. On 1 December 2021, he filed an application to challenge the non-renewal of his fixed-term appointment following the abolition of the post he encumbered.

Facts

3. It is the Applicant’s case that the impugned decision was retaliatory in nature in that he has a “vital role in the ongoing investigation” of the unit he served in. The Applicant further contends that all 16 staff members in his section affected by the downsizing exercise have been reabsorbed to fill different roles, except him.
4. The Applicant sought management evaluation of the impugned decision on 14 July 2021 and received a response following that evaluation on 13 August 2021.

Consideration

5. Having reviewed the application, the Tribunal considers that the primary issue to be determined is its receivability. The issue of receivability is one which in appropriate cases, such as this one, the Tribunal may determine on a priority basis without awaiting the Respondent’s reply.¹
6. The United Nations Dispute Tribunal has on several occasions considered matters of admissibility or receivability on a priority basis without considering the merits of an application or requiring that the Respondent submit a reply to the application.²
7. In *Cherneva* UNDT/2021/101, the Tribunal stated:

[t]he Tribunal has the competence to review an application’s receivability even if the parties do not raise the issue because “it

¹ *Morales* UNDT/2019/158, *Cherneva* UNDT/2021/101.

² *Karambizi* UNDT/2018/001, *Risasi* UNDT/2018/008.

constitutes a matter of law and the Statute prevents the [Tribunal] from receiving a case which is actually non-receivable” (see *Christensen* 2013-UNAT-335, para. 21).

8. The Tribunal deems it appropriate to determine this application by way of summary judgment *proprio motu* pursuant to art. 9 of its Rules of Procedure.

9. Article 8.1(d)(i)(a) of the Dispute Tribunal’s Statute stipulates that in cases where a request for management evaluation (“RME”) of a contested decision is required the application shall only be receivable if it is filed within 90 calendar days of the Applicant’s receipt of the response to the RME.

10. Time limits for formal contestations are to be strictly enforced, a day late is by no means *de minimis*. Whether a deadline is missed by several minutes, several hours, or several days is irrelevant.³

11. The UNDT has no discretion to waive the applicable deadlines.⁴

12. The application before me should properly have been filed on or before 11 November 2021. 1 December 2021 is well after that deadline.

13. The application is therefore not receivable *ratione temporis*.

Conclusion

14. The application is dismissed as not receivable.

(Signed)

Judge Margaret Tibulya

Dated this 3rd day of December 2021

Entered in the Register on this 3rd day of December 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi

³ *Ruger* 2016-UNAT-693.

⁴ *Kissila* 2014-UNAT-470, *Babiker* 2016-UNAT-672, *Roig* 2014-UNAT-491.