



**Before:** Judge Teresa Bravo

**Registry:** Geneva

**Registrar:** René M. Vargas M.

KHAN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**SUMMARY JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

UNICEF

## **Introduction**

1. The Applicant, a former staff member of the United Nations Children’s Fund (“UNICEF”), contests the amount paid to him as separation indemnity (“the contested decision”).

## **Facts**

2. The Applicant joined UNICEF on 19 September 1991 as a G-5 Project Assistant with the Pakistan Country Office (“PCO”). After serving in different capacities, he held a permanent appointment as an Administrative Specialist at the NO-3 level in Islamabad until his separation from service in October 2021.

3. In late 2020, the Applicant informed the Administration of his willingness to take early retirement after completing 30 years of service. The Administration then explored the possibility of an “agreed termination”.

4. On 23 February 2021, the Chief Human Resources Officer (“CHRO”), PCO, shared with the Applicant a Mutually Agreed Termination “request note”, which included termination indemnity in the amount of 12 months’ net base salary, for his review before submitting it to the Director, Division of Human Resources (“DHR”) for final review and approval.

5. On 11 March 2021, the CHRO, PCO, verbally informed the Applicant that the Director, DHR, was ready to approve his request, albeit with a termination indemnity of three months’ net base salary. The Applicant requested to increase the termination indemnity to six months. However, the CHRO, PCO, confirmed that the amount of three months’ net base salary was not negotiable because it was the maximum amount permitted by DHR to approve the Applicant’s request for an agreed termination.

6. On 16 March 2021, the Director, DHR, signed a Mutually Agreed Separation Agreement (“the separation agreement”), which included a one-time indemnity for separation from service for the Applicant in the amount of three months’ net base salary. This agreement was sent to the Applicant by email on 18 March 2021.

7. On 24 March 2021, the Applicant signed the separation agreement.
8. Effective 1 October 2021, the Applicant was separated from service.
9. On 3 February 2022, the Applicant requested management evaluation of the contested decision.
10. By letter dated 17 March 2022, the Applicant was informed that his request for management evaluation was not receivable.
11. On 19 June 2022, the Applicant filed the present application.

## **Consideration**

### *Preliminary observation*

12. The examination of an application's receivability is a matter of law, which may be adjudicated without serving the application on the Respondent for a reply and even if not raised by the parties (see *Christensen* 2013-UNAT-335; *Cherneva* UNDT/2021/003).

13. According to art. 9 of its Rules of Procedure, the Tribunal may, on its own initiative, determine that summary judgment is appropriate.

14. In the case at hand, the Tribunal deems it appropriate for judicial efficiency to decide on the present application by way of summary judgment as there is no controversy on the facts, and the legal matter at stake is the receivability of the application (see *Chahrour* 2014-UNAT-406; *Gehr* 2013-UNAT-313; *Cherneva* UNDT/2018/081 and *Cherneva* UNDT/2020/074; *Cherneva* UNDT/2021/003; and *Krioutchkov* UNDT/2022/054)).

### *Receivability*

15. The Tribunal has reviewed the application and finds it not receivable.

16. First, the Tribunal recalls that it has jurisdiction to consider applications only against an administrative decision for which an applicant has timely requested management evaluation. In this respect, staff rule 11.2(c) provides:

A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent **within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested** (emphasis added).

17. The Applicant indicates in his application that while he was initially offered a separation indemnity of 12 months' net base salary, this amount was later reduced to three months' net base salary in the separation agreement dated 16 March 2021.

18. According to the information on record, the CHRO, PCO, verbally informed the Applicant of the contested decision on 11 March 2021. Therefore, as per staff rule 11.2 (c), the Applicant had until 10 May 2021 to request management evaluation. Even considering that he was only informed of the contested decision on 18 March 2021, when he received the separation agreement, he had until 17 May 2021 to request management evaluation.

19. The Tribunal notes that the Applicant requested management evaluation of the contested decision on 3 February 2022, which is more than eight months after the mandatory deadline. Consequently, his application is not receivable *ratione materiae*.

20. Second, the Applicant accepted an amount of three months' net base salary as separation indemnity when he signed the separation agreement on 24 March 2021.

21. Furthermore, as per para. 5 of the separation agreement, the Applicant agreed to "refrain from filing any further claims against UNICEF arising from the terms of his appointment or separation from service, with the exception of any claim to enforce UNICEF's obligations under [the] Agreement".

22. Therefore, since the Applicant contests the amount of the separation indemnity to which he concurred under the separation agreement, he is barred from any recourse on this matter and his application is also not receivable in this respect.

**Conclusion**

23. In view of the foregoing, the Tribunal DECIDES to dismiss the present application.

*(Signed)*

Judge Teresa Bravo

Dated this 31<sup>st</sup> day of October 2022

Entered in the Register on this 31<sup>st</sup> day of October 2022

*(Signed)*

René M. Vargas M., Registrar, Geneva