



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2023/032

Judgment No.: UNDT/2023/023

Date: 5 April 2023

Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NAMORO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Maureen Munyolo, ALD/AS/OHR, UN Secretariat

Introduction

1. On 20 March 2023, the Applicant, a former Child Protection Officer at the P-2 level, filed an application contesting the non-extension of his Temporary Appointment (“TA”) with the United Nations Stabilization Mission in the Democratic Republic of Congo (“MONUSCO”) in Goma beyond 25 February 2023.
2. On 23 March 2023, the Respondent filled his motion for summary judgment in which he contends that the application is premature and not receivable *rationae materiae* because of the pendency of management evaluation.

Facts

3. On 16 January 2023, a MONUSCO Human Resources Officer (“HRS”) sent the Applicant a check out notification with a separation Memorandum informing him of the expiration of his TA on 30 January 2023.¹
4. Following the non-extension of his TA, the Applicant was separated from MONUSCO on 25 February 2023.²
5. On 13 March 2023, the Applicant requested management evaluation of the contested decision.³ The management evaluation response is due on 27 April 2023.

Considerations

6. Staff rule 11.2(a) and art. 8.1(c) of the UNDT Statute provide that a staff member wishing to contest an administrative decision is required to submit a written request for management evaluation to the Secretary-General. The time limits for filing an application run from the receipt of the management evaluation or expiry of the deadline to issue it.

¹Application, annex entitled *Separation documents sent to me by Mathieu. Msg (Interoffice Memorandum* dated 16 January 2023).

²Application, annex entitled *Separation documents sent to me by Mathieu. Msg (Interoffice Memorandum* dated 25 February 2023).

³Application, sec. VII, page 6, paras 9; Reply, annex R/1.

7. Although staff rule 11.2 and art. 8 of the UNDT Statute require only “requesting” management evaluation and not actually obtaining it, the Appeals Tribunal has stressed the obligation to await management evaluation, which process provides the administration an opportunity to correct any errors in an administrative decision and resolve disputes without the necessity to involve judicial review.⁴ Another rationale noted by the Appeals Tribunal for management evaluation and the attendant requirements to wait for the period necessary to obtain it, is that it provides the applicant an opportunity to consider reasons on the part of the administration prior to drafting and filing of the application and in this way fosters rationality and completeness of the argument before the Tribunal.⁵ Moreover, as held by this Tribunal in *Steinbach*, the application which had been filed without awaiting the result of management evaluation remains not receivable also after the management evaluation has been issued. Such a situation, for an applicant who wishes to pursue his or her claim before the Dispute Tribunal, calls for a new filing made in accordance with the applicable time limits.⁶

8. Therefore, the present application is premature.

Judgment

9. The application is dismissed as it is not receivable.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 5th day of April 2023

⁴ *Kouadio* 2015-UNAT-558, para 17; *Amany* 2015-UNAT-521, para. 17; *Nagayoshi* 2015-UNAT-498, para 36; *Mosha* 2014-UNAT-446, para. 17; *Christensen* 2013-UNAT-335, para 22; *Pirnea* 2013-UNAT-311, para 42.

⁵ *Neault* 2013-UNAT-345, para. 34.

⁶ *Steinbach* UNDT/2018/034, para 47.

Entered in the Register on this 5th day of April 2023

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi