



Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

ONDO MVONDO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Nisha Patel, AS/ALD/OHR, UN Secretariat

Charlene Ndirangu, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a Procurement Officer at the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). He holds a fixed term appointment and is based in Kinshasa.
2. On 26 November 2024, the Applicant filed an application with the United Nations Dispute Tribunal sitting in Nairobi to challenge the Respondent's decision to implement a court order on child support, which resulted in a salary deduction from February through July 2024.
3. It is the Applicant's case that the Mission did not have the right to implement this court order, and that it did so in breach of the privileges and immunities he enjoys as a staff member of the United Nations.
4. The Respondent filed his reply to the Application on 30 December 2024. The Respondent contends that the application stands to be dismissed as not receivable because the Applicant did not file a timely request for management evaluation of the impugned decision.

Consideration

5. Receivability is a threshold issue because the Tribunal is obliged to determine whether it has jurisdiction to hear a case. Receivability "constitutes a matter of law and the Statute prevents the UNDT from receiving a case which is actually non-receivable." *Christensen* 2013-UNAT-335, para. 21.
6. Article 8.1 of the Statute of the United Nations Dispute Tribunal provides that "[a]n application shall be receivable if... (c) [a]n applicant has previously submitted the contested administrative decision for management evaluation, where required..." Thus, the Tribunal must assess whether the staff member submitted the decision for management evaluation and did so within the time limit. *Babiker* 2016-UNAT-672

7. Staff rule 11.2 (c) provides that:

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. The deadline may be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General.

8. Article 8.3 of the UNDT Statute unequivocally states that the Tribunal “shall not suspend or waive the deadlines for management evaluation.”

9. In the present case, the Applicant claims that he does not know the date of the decision and “I came to realize the deductions made on my monthly salary when receiving the Feb 2024 payslip.”

10. However, the record contains an email to the Applicant dated 9 November 2023, in which the Mission Human Resources Officer wrote

Further to our telephone conversation this morning, this is to confirm, we will be proceeding to implement the court order issued by Tribunal de Residence Cibitoke Siegement a Cibitoke in Burundi dated 5 August 2021, pertaining to provision of child support in respect of child [name omitted for privacy reasons], in the amount of a third of your monthly salary.

11. As a result, it is clear that the Applicant was notified of the contested decision on 9 November 2023 and that the deadline for requesting management evaluation was 60 calendar days later, or 8 January 2024.

12. Even assuming, *arguendo*, the Applicant’s version that he first learned of the child support deductions when he received his February 2024, the record also contains an email dated 27 February 2024 sending his February payslip and an email from him the next day regarding the deduction for child support. As such, it is clear that he had received notification of the decision on 28 February 2024, and thus the deadline to request management evaluation would have been 29 April 2024.

13. However, the Applicant did not request management evaluation until 12 August 2024. This was 280 days after the Applicant received notification of the contested decision and 166 days after he received the payslip showing the deduction. In other words, he requested management evaluation well past the statutory 60-day deadline whether calculating from the 9 November 2023 notification or the deduction in February 2024.

14. The Tribunal has no jurisdiction to determine this application on the merits as it challenges a decision that was not submitted for management evaluation in a timely manner. The application is therefore not receivable *ratione materiae* (see *Egglesfield* 2014-UNAT-402).

15. In the interest of completeness, and for the benefit of the Applicant who is unrepresented, the Tribunal has also considered the merits of the Applicant's submissions in respect of the propriety of the impugned decision.

16. The Applicant's contention in respect of his putative privileges and immunities as a staff member of the United Nations is misconceived. Section 20 of the Convention on the Privileges and Immunities of the United Nations is clear: "Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves." See also *Leonid Dolgoplov*, 2021-UNAT-1093, para. 30; *Kozul-Wright*, 2018UNAT-843, para. 60.

17. Section 2 of ST/AI/2000/12 on the Private Legal Obligations of Staff Members makes plain that

[S]taff members *must comply with local laws and honour their private legal obligations*, including the obligation to honour orders of competent courts. Such orders include orders against a staff member to make payments for the support of his or her spouse or former spouse and/or dependent children.

In accordance with staff regulation 1.1 (f), the privileges and immunities of the United Nations are conferred in the interests of the Organization and furnish *no excuse to staff members who are covered by them for the non-performance of their private legal obligations*. The Secretary-General shall determine in any particular

case whether such privileges and immunities exist and, if so, whether they shall be waived. [Emphasis added]

18. The application would have been dismissed on the merits, if it were receivable.

Conclusion

19. The application is DENIED.

(Signed)

Judge Sean Wallace

Dated this 7th day of March 2025

Entered in the Register on this 7th day of March 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi