



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2024/076
Judgment No.:	UNDT/2025/100
Date:	1 December 2025
Original:	English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

TEGENE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alhagi Marong, UNECA

Introduction and Procedural History

1. The Applicant, a staff member of the United Nations Economic Commission for Africa (“UNECA”), filed an application challenging the denial of his Special Post Allowance (SPA) request.
2. The Respondent filed a timely reply, the Applicant filed a rejoinder thereto, and the parties filed closing submissions. Thus, the case is ready for adjudication.

Facts

3. The Applicant challenges the administrative decision denying his request for Special Post Allowance (SPA). The Applicant avers that the denial of SPA, which followed an unsuccessful management evaluation, constitutes a fundamental breach of his rights under the Organization’s legal framework.
4. The Applicant joined the UNECA on 22 October 2008 as a Finance Assistant (G-4). By 4 October 2016, he was promoted to Senior Finance and Budget Assistant (G-7) on fixed term appointment, which was converted into a continuing appointment on 3 March 2022.
5. 2. From April 2017 to March 2021, the Applicant worked under the supervision of Mr. Belay Worku, an Administrative and Finance Specialist. Mr. Worku separated from UNECA in April 2021.
6. On 3 May 2023, the Applicant submitted a request for SPA to the Chief Medical Officer, who was then his First Reporting Officer. He alleged that he had been performing the higher-level functions of Mr. Worku since April 2021.
7. On 4 May 2023, the FRO denied his request for SPA on grounds that he was not performing higher-level functions. Specifically, the FRO wrote:

It was the idea of the MSC to create the post of the Administrative and Finance officer to take over some of the administrative activities performed by me. Unfortunately the first person who came ... did not add any value to the clinic management. Then Belay was recruited and even this created many issues that you are aware of. This post does not exist and will not be activated because the

incumbents did not do anything different from what your job description showed. At this point I do not see where the SPA is coming ...

Secondly you know that for any SPA to take place the position must be advertised, and candidates compete for it. I don't see which position we are going to advertise as the position is not existing.

8. On 14 June 2023, the Applicant then reiterated his SPA claim to the Chief Human Resources Officer ("CHRO"). The CHRO responded on 26 June 2023 saying:

The grant of Special Post Allowance is governed by the provisions of ST/AI/1999/17 The grant of SPA requires the following conditions to be met –

1. A higher level post should exist within the organisation supported by a classified job description of the higher-level post;
2. The staff member should have been advised to perform full functions of the higher-level post – through selection against a TJO and through a memo from the Executive Secretary;
3. The supervisor must certify that the staff member performed the full functions of the higher-level position satisfactorily.

To enable a full review of your request, we would be grateful if you could send us the documents that attest to the three points listed above.

9. On 11 March 2024, the Applicant further escalated his claim to the UNECA Executive Secretary. The UNECA Director of the Division of Administration responded to the Applicant on 15 July 2024, providing a detailed analysis of why he was not eligible for the SPA.

10. The Director said:

[Y]ou may have performed parts of the duties and responsibilities of the higher-level post; at no time the full functions were discharged neither there is a higher-level post on the UNECA staffing table against which you can be considered for payment of SPA in this case. Furthermore, as per staff rule 3.15, such claims have to be submitted 'within one year following the date on which the staff member would have been entitled to the initial payment'. The

request was received on 14 June 2023 for additional responsibilities carried out in July 2021.

11. On 23 August 2024, the Applicant requested management evaluation of the decision, and on 4 October 2024 the Management Advice and Evaluation Section (MAES) upheld the contested decision not to grant the Applicant an SPA.

12. The Applicant then filed the instant application for judicial review.

Consideration

13. Although the Respondent did not expressly challenge the receivability of this application¹, the jurisprudence is clear that “the UNDT is competent to review its own jurisdiction, whether or not it has been raised by the parties.” *O’Neill* 2011-UNAT-182, para. 31. Moreover, “[t]his competence can be exercised even if the parties or the administrative authorities do not raise the issue, because it 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. As such the Tribunal will consider receivability *sua sponte*.

14. Staff rule 3.17 addresses retroactivity of payments and provides that

A staff member who has not been receiving an allowance, grant or other payment to which he or she is entitled shall not receive retroactively such allowance, grant or payment unless the staff member has made written claim: ... (ii) In every other case, within one year following the date on which the staff member would have been entitled to the initial payment.

15. In *Franco* 2022-UNAT-1238, the Appeals Tribunal examined this staff rule and held that “Mr. Franco’s claim for an SPA was time-barred because he did not raise it within one year following the date on which he would have (allegedly) been entitled to the initial payment.” *Id.* para. 54.

¹ If the Respondent had submitted his Reply on the form provided for such submission (UNDT/F.13E), the issue of receivability would have been very clear. The form specifically asks the Respondent to check whether he is contesting receivability and if so, the reasons. The failure to use the proper form caused unnecessary delay in resolving this case.

16. The Applicant argues that his entitlement to the SPA accrued day-by-day. “At most, the alleged time bar could only limit the Applicant’s entitlement to retroactive pay for the period from 17 April 2021 (assignment date) to 2 May 2022 (one year prior to the claim submission).”

17. However, the Appeals Tribunal expressly rejected a similar argument which had been accepted by the Dispute Tribunal. “The UNDT’s interpretative approach of Staff rule 3.17 ... was erroneous as this provision does not allow for a “mobile” “deadline” that ‘continuously shifts’ from ‘day to day’.” *Franco* para. 51.

18. Accordingly, the Applicant’s claim is time-barred under staff rule 3.17 (ii) and not receivable.

Conclusion

19. The application is dismissed as not receivable.

(Signed)

Judge Sean Wallace

Dated this 1st day of December 2025

Entered in the Register on this 1st day of December 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi