



**Before:** Duty Judge

**Registry:** Nairobi

**Registrar:** René M. Vargas M., Officer-in-Charge

BERQUIN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON MOTION FOR EXTENSION OF  
TIME TO FILE AN APPLICATION**

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**Counsel for Applicant:**

Marco Gambardella, OSLA

**Counsel for Respondent:**

UNICEF

## **Introduction**

1. On 23 April 2024, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of a decision to withdraw her offer of appointment.

## **Factual background**

2. The Applicant received the contested decision on 20 November 2023.

3. On 14 December 2023, the Applicant requested management evaluation of the contested decision. The management evaluation was due after 45 days, i.e, on 29 January 2024. The parties have since agreed to enter a settlement discussion which is still ongoing.

4. Pursuant to art. 8(1)(d)(i)(b) of the Tribunal's Statute, the 90-day deadline to file an application after 29 January 2024, when the management evaluation was due, falls on 29 April 2024.

5. On 23 April 2024, the Applicant, through her Counsel, filed the motion referred to in para. 1 above. In support of it, the Applicant submits that the parties are engaged in advanced stages of *bona fide* settlement discussions with the objective to avoid litigation of this matter before the Tribunal.

6. The Applicant further contends that by granting the motion, the Respondent will not suffer any prejudice because it would also extend the Respondent's time to file a reply. In addition, the Respondent is aware of the prospect of this matter being settled amicably. Likewise, the granting of this motion is in the interests of justice and judicial economy, given that it would contribute to a satisfactory resolution of this matter between the parties without incurring the expenses and spending time on litigation.

7. In view of the above, the Applicant requests a 30-day extension of time to file the application from 29 April 2024 until 29 May 2024.

### **Consideration**

8. Article 8.3 of the Dispute Tribunal’s Statute provides that the Dispute Tribunal “may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases”.

9. Article 7.5 of the Dispute Tribunal’s Rules of Procedure reiterates that in exceptional cases an applicant may request a suspension, waiver or extension of the time limits for filing an application. It further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.

10. In *Gelsei* 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then an applicant bears the burden to prove “any circumstances beyond [her/his] control that would have the effect of preventing him from acting within the statutory time limits” (para. 30). The Appeals Tribunal stated that the circumstances should meet “the test of untypicality or unusualness” (para. 34).

11. In this case, the Applicant submits that once he was notified of the contested decision, she requested management of evaluation. The response of UNICEF was due by 29 January 2024. However, the parties agreed to enter a settlement phase which is still ongoing.

12. The Tribunal finds that the Applicant showed exceptional circumstances that justify the extension of the time limit.

### **Conclusion**

13. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant’s motion for extension of time to file an application is granted; and

- b. The Applicant shall file her application **on or before Wednesday, 29 May 2024.**

*(Signed)*

Judge Sean Wallace, Duty Judge

Dated this 25<sup>th</sup> day of April 2024

Entered in the Register on this 25<sup>th</sup> day of April 2024

*(Signed)*

René M. Vargas M., Officer-in-Charge, Nairobi