



**Before:** Judge Joelle Adda  
**Registry:** New York  
**Registrar:** Nerea Suero Fontecha

MALHOTRA

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:**  
Monika Bileris

**Counsel for Respondent:**  
UNICEF

## **Introduction**

1. On 18 October 2019, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of a decision to impose a disciplinary sanction against her, which was notified to her on 2 August 2019. The deadline for filing an application before the Dispute Tribunal is therefore 31 October 2019, and the Applicant is seeking an extension of time for 21 additional days, that is, until 21 November 2019.

2. The Applicant contends that after she received the contested decision of 2 August 2019, she approached the Office of Staff Legal Assistance (“OSLA”) on 7 August 2019, which had assisted her during the course of the investigation. The Applicant submits that she was only able to meet a counsel from OSLA on 23 August 2019 and, on 10 September 2019, OSLA told her that it could not represent her. In the meantime, throughout the months of August, September and October 2019, several members of the Applicant’s close family had serious health issues which required her attention. The Applicant retained a private counsel on 17 October 2019, but they have only had limited time to discuss her case, review her extensive case file, and prepare an application.

## **Considerations**

3. 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”. 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. Article 7.5 further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.

4. It is well established jurisprudence that the Tribunal may only suspend or waive the deadlines for filing an application in exceptional circumstances (see, for instance, *Osman* 2011-UNAT-147, *Christensen* 2012-UNAT-218 and *Rüger* 2016-UNAT-693). The Appeals Tribunal held in *El-Kathib* 2010-UNAT-029 that only events beyond the applicant's control and actually preventing him or her from pursuing legal action may be regarded as "exceptional circumstances" warranting such a waiver.

5. Considering the Applicant's submission, the Tribunal is satisfied that exceptional circumstances exist in this case.

IT IS ORDERED THAT:

6. The Applicant's motion for extension of time to file an application is granted, and the Applicant shall file her application, if any, on or before **5:00 p.m. on Thursday, 21 November 2019**.

*(Signed)*

Judge Joelle Adda

Dated this 18<sup>th</sup> day of October 2019