
Case No. 2010-103



Counsel for Respondents/Applicants: Duke Danquah/Kevin Browning

Counsel for Appellant/Respondent: Amy Wood

JUDGE SOPHIA ADINYIRA, Presiding.

Synopsis

1. Ajdini, Rudi, H. Zaneli and S. Zaneli were language assistants locally recruited between September 2000 and August 2002 at the GL-3 level on the 300-series contracts of limited duration with the United Nations Interim Administration Mission in Kosovo (UNMIK). Their appointments were renewed continuously until 30 June 2005, when they were separated from their employment with UNMIK by a letter dated 23 May 2005 from the Chief Civilian Personnel Officer (CCPO).

2. Ajdini and Rudi requested the Secretary-General to review the decisions not to renew their contracts by letter dated 8 May 2006; S. Zaneli did so by letter dated 11 August 2006; and H. Zaneli by letter dated 14 August 2006. Their requests were refused on the grounds that they were time-barred.

3. Their appeal to the former Administrative Tribunal was transferred to the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) during the transitional period. The UNDT waived the deadline for administrative review on the ground of exceptional circumstances.

4. The Secretary-General's appeal that the UNDT exceeded its competence and erred on a question of law in determining that it had authority to waive the time limit for requesting administrative review is upheld.

5. This issue should now be considered as settled because the Appeals Tribunal in *Costa*¹

Article 8(3) of the Statute of the Dispute Tribunal (UNDT Statute), due to a specific prohibition in this respect contained in Article 8(3).

Facts and Procedure

7. Ajdini, Rudi, H. Zaneli and S. Zaneli were language assistants locally recruited between September 2000 and August 2002 at the GL-3 level on the 300-series contracts of limited duration with UNMIK. Their appointments were renewed continuously until 30 June 2005, when they were separated from their employment with UNMIK.

8. In April 2005, Ajdini and others learned of a plan to downsize UNMIK and reduce the number of language assistants.

9. On 23 or 24 May 2005, Ajdini and others were called into the office of the Director of Administration of the Police component of the Justice and Police Pillar, Robert Locke (Locke), and were told that their contracts would not be renewed. Locke gave them a letter dated 23 May 2005 from the CCPO, Danielle Pecorini, which informed Ajdini and others that their appointments would “expire on 30 June 2005 without further extension” due to post reductions.

10. Ajdini and others met with various officials of the UNMIK Administration for advice about the procedure to make an appeal, but did not receive helpful information. Subsequently they approached the Ombudsman, and continued to try to bring their appeal. Some time in February 2006, they sent an appeal to New York. It was addressed to “UN 100 10017 attn 3 .9(“U)6.n0 -1.6pe1(6)-22(t)106ua”iN(e1(6)-2 four(r)22.6e4.8(e)-)4(als)-3.9sals(es)4p(es)e

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26. The issue then is whether the UNDT has authority to suspend or waive the deadline for administrative review.

27. Article 8(3) of UNDT Statute provides:

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. The Dispute Tribunal shall not suspend or waive the deadlines for management evaluation.

This issue should now be considered as settled because the Appeals Tribunal in *Costa*, and other judgments such as *Mezoui*, *Samardzic*, and *Trajanovska* has consistently held that the UNDT has no jurisdiction to waive deadlines for management evaluation or administrative review.

28. The Appeals Tribunal in paragraph 23 of *Trajanovska* held:

Therefore, the legal position which emerges is that time limits prescribed for administrative review (and management evaluation under the new system), which could

Judgment

30. The appeal is allowed and Order No. 50 (GVA/2010) of the UNDT is set aside.

Original and Authoritative Version: English

Dated this 11th day of March 2011 in New York, United States.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Courtial

(Signed)

Judge Garewal

Entered in the Register on this 19th day of April 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar