



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Ms. Hanne Moll Christensen against Judgment No. UNDT/2012/094, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi on 27 June 2012 in the case of *Christensen v. Secretary-General of the United Nations*.

**Facts and Procedure**

2. The following facts are taken from Judgment No. 2012-UNAT-218, issued by the Appeals Tribunal on 16 March 2012 in another case filed by this Appellant:<sup>1</sup>

... Ms. Christensen joined the Organization in 1984. On 14 October 1996, Ms. Christensen joined the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania as a Training and Staff Welfare Assistant on a fixed-term

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the issue of receivability does not exist for transferred cases (from the JAB to the UNDT), when the JAB found them to be receivable.

12. The Secretary-General is also estopped from arguing that the claims are not receivable since he had remanded it to the JAB for consideration, and also urged the former Administrative Tribunal to reject these claims because they were under consideration by the JAB. He is therefore precluded from raising the issue of receivability now.

13. Furthermore, in the event that the UNDT was required to review the JAB's determination, the UNDT failed to exercise its jurisdiction in simply assuming, without discussion, that the JAB was incorrect and that administrative review had not been sought in a timely manner. In any event, the JAB's conclusion was correct.

14. Ms. Christensen thus asks that the UNDT Judgment be overturned and remanded for consideration on its merits.

#### **Secretary-General's Answer**

15. The UNDT correctly concluded that the case was not receivable, as Ms. Christensen failed to file a timely request for administrative review. The UNDT is not bound by the JAB's findings, but is entitled to exercise its own jurisdiction, regardless of whether the case was transferred to it or not. This is in accordance with the jurisprudence of both this Tribunal and the UNDT. Furthermore, the Secretary-General is not estopped from raising receivability claims.

16. The UNDT's reasoning in making its receivability determination was sufficient.

17. The Secretary-General thus requests this Tribunal to affirm the UNDT Judgment and to dismiss the appeal.

#### **Considerations**

18. This Tribunal finds that Ms. Christensen has failed to establish any errors warranting the reversal of the UNDT Judgment concerning some of her entitlements.

19. The impugned Judgment correctly concluded that the claim was not receivable. This Tribunal has consistently held that the UNDT has no jurisdiction to waive the deadlines for management evaluation or administrative review.<sup>3</sup>

20. On the other hand, the UNDT is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute. The UNDT committed no error in finding that, in the absence of the required administrative review pursuant to former Staff Rule 111.2(a), the application was not receivable.<sup>4</sup>

21. This 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.

22. Hence, in the present case, as Ms. Christensen did not seek administrative review of the denial of payment of certain entitlements, the appeal before the UNDT was not receivable since the case cannot be accepted in the judicial phase without the prior attempt of administrative review and potential partial or total solution. The Statute clearly favours informal and administrative resolution of cases and only authorizes the entrance to judicial resolution after the failure of the previous one.

### **Judgment**

23. The appeal is dismissed and the UNDT Judgment is affirmed.

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<sup>3</sup> *Trajanovska v. Secretary-General of the United Nations*, Judgment 2010-UNAT-074.

<sup>4</sup> *O'Neill v. Secretary-General of the United Nations*, Judgment 2011-UNAT-182.

Original and Authoritative Version: English

Done in New York, United States.

*(Signed)*

Judge Simón, Presiding  
28 June 2013

*(Signed)*

Judge Weinberg de Roca  
21 June 2013

*(Signed)*

Judge Lussick  
28 June 2013

Entered in the Register on this 26<sup>th</sup> day of August 2013 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar