



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/12

Judgment No: UNDT/2014/46

Date: 24 April 2014

Original: English

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**Before:** Judge Coral Shaw

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

STAEDTLER

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON RECEIVABILITY**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Saidou N'dow, UN-HABITAT

## **Introduction**

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[http://www.un.org/en/oaj/leag\\_assist/howto.shtml](http://www.un.org/en/oaj/leag_assist/howto.shtml). The Tribunal also directs service on the present order on the Office of Staff Legal Assistance to facilitate the process.

7. On 31 October 2013 and 5, 6 12 and 13 November 2013, OSLA and the Applicant engaged in further communications.

8. On 3 December 2013 the Applicant requested management evaluation of the following decisions by OSLA:

a) To decline legal representation in the ongoing case UNDT/NBI/2013/021 (the first decision)

b) To decline legal representation in the ongoing case UNDT/NBI/2013/061 (the second decision).

9. In answer to the question on the MEU application form “When was the decision taken or when you became aware of it?” the Applicant replied 5 November 2013.

10. On 20 December 2013, MEU informed the Applicant that his request for management evaluation in respect of the first decision (which it dated as 6 December 2012) was not receivable because it was time barred. It considered th2cgeTJ0 -1.7272 TD-.0004

14. On 14 January 2014 the Applicant requested management evaluation of “the Respondent’s decision to irregularly misrepresent my request for management evaluation dated 3 December...”

15. On 30 January the MEU responded (inter alia) that the request was not receivable.

### **Issues**

16. The single issue in this case is whether a decision of MEU is subject to review by the Tribunal.

### **Applicant’s submissions**

17. The Applicant submitted, quoting many authorities, that the impugned decisions were substantively irregular as they violated his right to due process including the Organization’s obligation of fair dealing, to act in good faith and to respect the applicant’s dignity.

18. The decisions incorporated personal prejudice and bias and were an abuse of authority which damaged his career and caused severe emotional damage.

### **Respondent’s submissions**

19. The Respondent submitted that the Applicant’s allegations against OSLA and MEU are unfounded and not supported by the correspondence he had with the relevant entities.

20. The Applicant’s request for legal advice was given full and careful consideration by OSLA and MEU was correct in affirming the decision. MEU’s decision that the request for review of the first decision was time barred was justified and in accordance with the relevant rules and procedures.

21. In reaching its decision in relation to the second decision MEU did not act inconsistently with its mandate or incorrectly exercise its discretion.



28. Although MEU sits outside the formal United Nations internal justice system it does intersect with it. This is demonstrated in article 2.2 of the Statute which gives competence to the Tribunal to suspend an administrative decision during the pendency of a management evaluation.

29. When an application is filed in the Tribunal, the contested decision which may be reviewed is not the decision of t MEU but the administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment<sup>4</sup>. The outcome of a review of the administrative decision by MEU is not of itself an administrative decision as defined in article 2 and the Tribunal is not competent to hear and pass judgment on it.

30. The remedy for an applicant who is dissatisfied with the outcome of an MEU review of an administrative decision is to file an application with the Tribunal. The Tribunal hears the appeal against the administrative decision *de novo* and without regard to the outcome of the MEU review. This gives an applicant a second opportunity to present his or her case afresh to the Tribunal.

31. In the present case the Applicant's Application to the Tribunal contesting the administrative decisions of OSLA is yet to be determined.

### **Conclusion**

32. The Applicant's challenge against the outcome of the MEU review is not receivable by the Tribunal.

33. The Application is dismissed.

*Signed*

Judge Coral Shaw

Dated this 24 day of April 2014

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<sup>4</sup> Art 2(1) (a) Statute of the Dispute Tribunal.

Entered in the Register on this 24 day of April 2014

*Signed*

Abena Kwakye-Berko, Registrar, Nairobi