



Case No.: UNDT/NY/2012/018
Order No.: 51 (NY/2012)
Date: 19 March 2012

The Applicant apparently did not receive any communications regarding the outcome of the management evaluation by that deadline.

6. The Statute of the Dispute Tribunal specifically provides for the situation where no response to the management evaluation is received. Pursuant to art. 8.1(d)(i)(b) of the Tribunal's Statute, the Applicant's application under art. 2.1 of the Statute shall be receivable if it is filed "[w]ithin 90 calendar days of the expiry of the relevant response period for the management evaluation *if no response to the request was provided*" (emphasis added). Therefore, in the absence of a response from management evaluation, and provided that her request for management evaluation was received on 11 November 2011, the Applicant has until Monday, 26 March 2012, to file the present application (the exact deadline falls on Sunday, 25 March 2012, which is not a working day).

Consideration

7. Article 8.3 of the Dispute Tribunal's Statute provides that "[t]he Dispute Tribunal may decide ... 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".

8. Concerning the filing of an application, art. 7.5 of the Rules of Procedure states that an applicant may request suspension, waiver, or extension of time limits "[i]n exceptional cases" and that he or she must succinctly set out the exceptional circumstances justifying such a request.

9. Pursuant to art. 7.1(b) of the Dispute Tribunal's Rules of Procedure, the Applicant's application under art. 2.1 of the Statute shall be submitted to the Dispute Tribunal within:

90 calendar days of the relevant deadline for the communication of a response to a management evaluation, namely, 30 calendar days for

disputes arising at Headquarters and 45 calendar days for disputes arising at other offices.

10. The Applicant has provided two reasons for her request, namely ongoing discussions with the MEU and her certified sick leave until 31 March 2012. Each of these reasons is discussed below.

Ongoing discussions with the MEU

11. With respect to the first reason, no documents have been provided to the Dispute Tribunal to assess the nature of the alleged “ongoing discussions” between the Applicant and the MEU. Considering that the deadline for the Administration’s response to the Applicant’s request for management evaluation expired approximately three months ago, the nature of MEU’s continued involvement in this case is unclear.

12.

Administration the earliest opportunity to reconsider and remedy a situation in which an administrative decision has been challenged (*Omondi* UNDT/2011/020). Whilst ordinarily, with a few exceptions, submission to management evaluation is a necessary requirement for having a case determined by the Dispute Tribunal, awaiting the receipt of MEU's response beyond the requisite time period is not. If the MEU fails to deliver a management evaluation within the prescribed period, by default, as the time for management evaluation may generally not be extended, the original administrative decision stands as adopted by the Respondent.

14.

reflecting the outcome of the management evaluation, may be extended by the Secretary-General “pending efforts for informal resolution by the Office of the Ombudsman, under conditions specified by the Secretary-General”. (See also para. 32 of General Assembly resolution 66/237.) It appears that, for this provision to have meaningful effect, it has to be interpreted such that resolution efforts through the Office of the Ombudsman (in particular, its Mediation Services) are a required condition for the extension of the deadline for the response by the Secretary-General.

17. In this case, the deadline for the Secretary-General’s response to the management evaluation request expired on 26 December 2011 (provided that the Applicant’s request was received by the MEU on 11 November 2011). Unless the parties can demonstrate that this deadline has been “extended by the Secretary-General pending efforts for informal resolution by the Office of the Ombudsman, under conditions specified by the Secretary-General”, it is unclear on what basis the MEU continues its work on the Applicant’s case.

18. The limitations imposed by art. 8.3 of the Tribunal’s Statute and staff rule 11.2 shall not be ignored. In view of these limitations, the Tribunal finds that, in the circumstances of this case, the first rule of the Tribunal’s Statute (art. 8.3) and staff rule 11.2 shall not be ignored. In view of these limitations, the Tribunal finds that, in the circumstances of this case, the first rule of the Tribunal’s Statute (art. 8.3) and staff rule 11.2 shall not be ignored.

by both the Dispute Tribunal and the United Nations Appeals Tribunal is not as strict as in cases when the request is filed after the deadline has passed (see, e.g., *Jaen* Order No. 331 (NY/2010) and *Weerasooriya* Order No. 23 (NY/2011), as well as *Molari* Order No. 15 (UNAT/2010), *Kaddoura* Order No. 21 (UNAT/2010), and *Ishak* Order No. 22 (UNAT/2010)).

21. Based on the Applicant's health situation, and noting that she filed the present application prior to the expiration of the time limit, the Tribunal finds it appropriate to grant the Applicant a limited extension of time until 16 April 2012 to file her application.

22. In view of its findings in the present Order, the Tribunal did not consider it necessary to request the Respondent's comments on the present motion.

Observations

23. When requesting an extension of time, applicants should ensure that all relevant documentation pertaining to the motion, particularly pertaining to the reasons for it, are provided to the Tribunal. In this case, the Applicant did not attach several important documents, including her request for management evaluation and communications confirming its receipt by the MEU.

24. The Applicant stated that she has not yet determined whether she will be represented in this case by a legal counsel. On 13 March 2012, the New York Registry of the Tribunal reminded the Applicant to confirm whether she is represented in this case. In the event the Applicant decides to be represented, she will be required to provide the Tribunal with a copy of her signed authorization, as stipulated in art. 8.2 of the Rules of Procedure.

25. The Tribunal notes that the present motion and supporting documentation were filed not through the eFiling portal, which is the current standard procedure, but

The Applicant is reminded that it is her responsibility to ensure that submissions before the Tribunal are filed following the established procedures and in a structured