



UNITED NATIONS APPEALS TRIBUNAL
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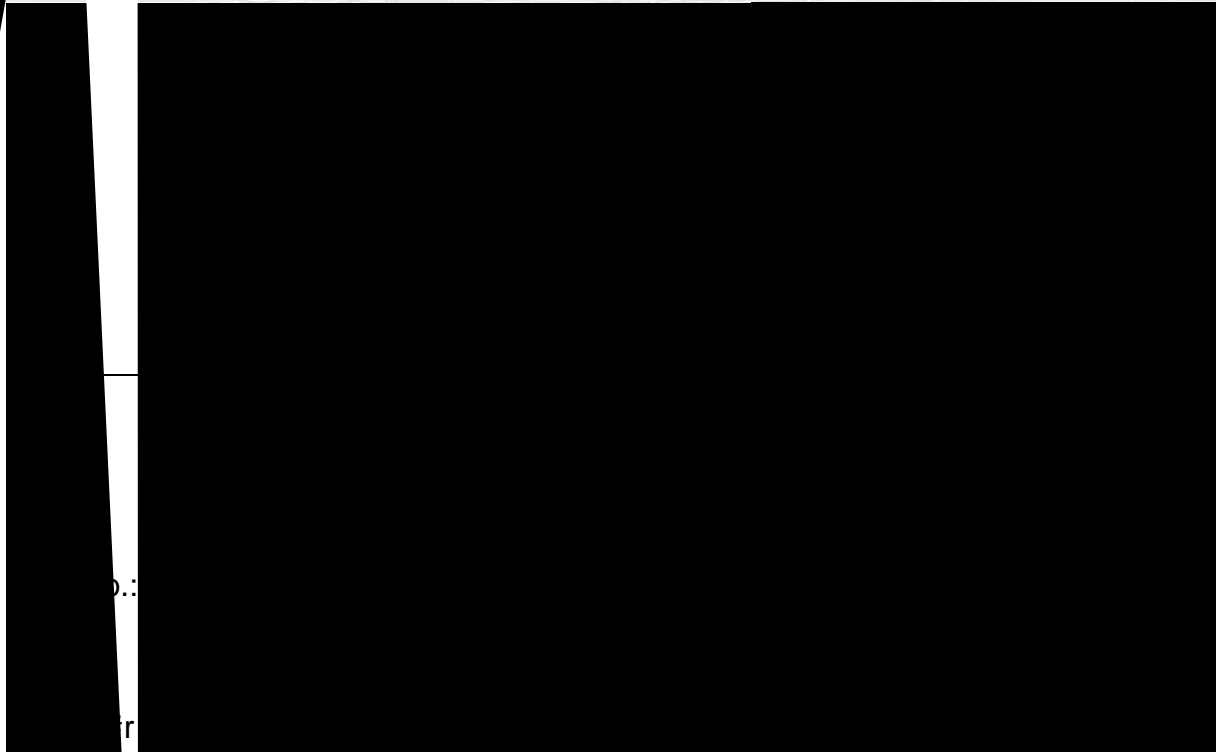
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No. 2019-UNAT-941

Dieng
(Appellant)

v.

Secretary-General of the United Nations



Counsel for Mr. Dieng:

Elina Dagnac

Counsel for the Secretary-General:

Christine Vanhulst

the #luation -#s (omitted\$ if earlier\$ unless the deadline +#s been extended 1! the &(ret#r!)ener#l to #ilit#te efforts for inform#l resolution under the #us8i(es of the %ffi(e of the %m1udsm#n.

F. %n 15 %(to1er 2016\$ Mr. Dieng re(ei ed the MEU's res8onse to his reBuest for m#n#gement e #luation - +i(+ #d ised +im t+#t the (ontested de(ision +#d been u8+eld.

5. .! e-mail d#ted 16 %(to1er 2016\$ the MEU (onfirmed t+#t its de(ision of 15 %(to1er 2016 -#s issued 8rior to the e38ir#tion of the UNDT's 90-(#lend#r d#! de#dline 9i.e. 24 %(to1er 2016: #nd t+#t #((ording!+ his re(ei8t of the m#n#gement e #luation resulted in setting # ne- de#dline for su1mitting his #88li(ction\$ in #((ord#n(e -it+ the A88e#ls Tri1un#l's +olding in Neault.² The MEU #d ised t+#t 6t+e (lo(0 st#rts ti(ing from !esterd#! -+en !ou re(ei ed the Dm#n#gement e #luationE letter. An 8r#(ti(#! terms\$!ou +# e 90 (#lend#r d#!s from 15 %(to1er 2016\$ to file !our #88li(ction - it+ the UNDT.H

6. .! letter d#ted 5 No em1er 2016\$ Mr. Dieng -#s informed t+#t his fi3ed-term #88ointment -ould not be rene-ed 1e!ond 41 De(em1er 2016.

9. T+#t s#me d#!\$ Mr. Dieng filed his #88li(ction 1efore the UNDT (+#llenging the de(ision to re#ssign +im from the C*U to the %J&/\$UNAMAD.

10. %n 40 J#nu#r! 2019\$ the UNDT issued Judgment on /e(ei #ilit! No. UNDT;2019;014 dismissing Mr. Dieng's #88li(ction #s not re(ei #ile. The UNDT noted t+#t Mr. Dieng +#d filed his reBuest for m#n#gement e #luation on 1 June 2016 #nd #((ording!+ the MEU's res8onse to his reBuest -#s due 1! 1F Jul! 2016. &in(e on t+#t d#te\$ Mr. Dieng +#d not !et re(ei ed # res8onse to his reBuest\$ the 90-d#! time limit for filing #n #88li(ction 1efore the UNDT st#rtd to run. , is #88li(ction to the UNDT -#s t+erefore due 1! 14 %(to1er 2016! !et\$ Mr. Dieng did not file his #88li(ction until 5 No em1er 2016. The UNDT found t+#t the f#(t t+#t Mr. Dieng re(ei ed # res8onse to his reBuest on 15 %(to1er 2016 did not reset the (lo(0 for filing #n #88li(ction - it+ the UNDT #s it -#s re(ei ed #fter the e38ir#tion of the 90-d#! time limit to #88e#l to the UNDT. The UNDT t+erefore (on(luded t+#t Mr. Dieng's #88li(ction -#s time-1#rred.

² Neault v. Secretary-General of the United Nations\$ Judgment No. 2014-UNAT-44<.

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Judgment No. 2019-UNAT-941

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The Secretary-General's Answer

15.

20.

24. Article 591 of the UNDT Rules of Procedure provides that where a management election is required, the election shall be submitted to the UNDT within 90 days of the receipt of the election by the Secretary-General or 90 days of the release of the deadline for the communication of a response to a management election request. Article 40 of the Rules of Procedure provides that, except in cases of disputes arising from other offices.

25. Rule 11.2 provides in relevant part:

Staff Rule 11.2

Management election

9C:

9C: A request for a management election shall not be received if the

staff member received notification of the administrative decision to be contested. This deadline may be extended if the Secretary-General is sending efforts for information

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44. With regard to Mr. Dieng's contention that 6 June 2016 should be the date of his request for management e #lu#tion from - i(+ #l su1seBuent de#dlines should be counted - e find it - it+out merit for t-o reasons. First, as noted, Mr. Dieng's communication to the MEU of 6 June 2016 did not constitute a request for management e #lu#tion but a mere submission of his management e #lu#tion request of 1 June 2016 in that it provided additional information to the MEU. Second, Mr. Dieng - #nted to submit a - #ne- H request for management e #lu#tion on 6 June 2016, as should be - #i ed his first submission to the MEU on 1 June 2016. Moreover, he should do so in time! manner - i(+ is not the case here since 6 June 2016 - #s - ell 1e!ond the time limit for filing a request for management e #lu#tion that is 14 June 2016, given that Mr. Dieng - #s notified of the contested administrative decision on 4 April 2016. An - #!\$ resubmitting a request for management e #lu#tion (which does not reset the date management e #lu#tion is sought or the date from - i(+ the time limits for filing a submission for - #di(i#l re - ensues. Therefore, the deadline for filing a submission - ould be no later than 14 June 2016.⁹

45. Further, Mr. Dieng argues that the MEU (confirmed the in - riting that the relevant date for (filing) ensuing deadlines - #s 24 July 2016 and hence his submission - #s filed in time! manner based on that date, as he - #s entitled to rely on it for purposes of exercising his rights to the internal - #stems.

46. The first basis of his claim is borne out by the content of the letters that the MEU sent to Mr. Dieng on 6 June 2016 and 16 June 2016, respectively. As reflected on 6 June 2016, Mr. Dieng received a non-acknowledgment letter from the MEU - i(+ informed him inter alia that:¹⁰

Jour (correspondence dated 1, 2, 4 and 5 June 2016 and addressed to the Management E #lu#tion Unit, MEU: request for management e #lu#tion (concerning the decision to resign you from the Child Protection Unit to the office of the Joint Representative - #s received at this office on 14 June 2016, respectively. C

9C:

*Please also note that pursuant to article 11.29d, the management e #lu#tion in your case is to be completed - i(+ in 4 (calendar) days of receipt of your completed request or no later than

the #lution t+e MEU -ill (ont#(t !ou to so #d ise. An #n! e ent\$ 8le#se 1e #d ised t+#t\$ 8ursu#nt to &t#ff /ule 11.49#:\$ t+e 90-d#! de#dline for filing #n #88li(#tion to t+e United N#tions Dis8ute Tri1un#l\$ s+ould !ou -is+ to do so\$ -ill st#rt to run from , - &+ly , . /O\$or t+e d#te on -+i(+ t+e m#n#gement e #lution -#s (om8leted\$ if e#rlier\$ unless t+e de#dline +#s 1een e3tended 1! t+e &(ret#r!-) ener#l to f#(ilit#te efforts for inform#l resolution under t+e #us8i(es of t+e %ffi(e of t+e %m1udsm#n.

45. 7+ile on 16 %(to1er 2016\$ t+e MEU #d ised Mr. Dieng #s follo-s:

*le#se 1e #d ised t+#t #s indi(#ted in our #(Ono-ldgement letter of 6 June 2016\$!our

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