
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2016/017

Judgment No.: UNDT/2017/062

Date: 4 August 2017

Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

CHAMA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Edwin Nhiliziyo

Counsel for the Respondent:

Steven Dietrich, ALS/OHRM

Alister Cumming, ALS/OHRM

Introduction

1. The Applicant is a staff member of the United Nations Interim Force in Lebanon (UNIFIL).

2. On 1 March 2016, he

He seeks rescission of the decision to
abolish that post.

3. The Respondent filed a reply on 7 April 2016 in which it is argued that the application is not receivable.

4.

submissions on receivability on 21 March 2017 having been granted leave by the Tribunal to do so. The Applicant and Respondent filed additional documents pertaining to the Applicant employment history on 14 and 21 July 2017, respectively.

5.

of Procedure, that an oral hearing is not required in determining the preliminary issue

Relevant Facts

6. The facts laid out below are uncontested and supported by pleadings and additional submissions.

7. Effective 1 January 2007, the Applicant was appointed on a fixed-term appointment as an FS-4 Geographic Information Systems (GIS)

- c. He has filed this application within the time prescribed by art. 8 of the UNDT Statute. 5 as marking the commencement of time limit is appropriate, as it is the final disposition of his requests.
- d. The substantial issue before the Tribunal has not been fully addressed by MEU which has sought to misinterpret aspects of the decision contested by him and portray it

The Mission has identified a number of changes to be made in the staffing requirement which has resulted in various posts being abolished and/or nationalized.

[y]our post is one of those affected by the changes from 30 June 2015 due to abolishment/nationalization of your post in the 2015/2016 budget and the unavailability of another post at your level. Your

being subject to management evaluation as well as capable of being reviewed by the UNDT.

Receivability rationae temporis

27. The UNDT Statute provides in art. 8 that a necessary condition for receivability of an application is that an applicant has previously submitted the contested administrative decision for management evaluation:

management to his or her submission; or

b. Within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices.

28. The Applicant requested management evaluation of the decision on 23 May 2015. In their letter of 27 May 2015, MEU, having interpreted his claim as directed against the non-extension of his appointment, deferred the management evaluation till later. It indeed responded to the request on 8 June 2015, finding it moot. Whereas the i.e., the designation of the post for nationalization and non-extension of the appointment to the specific position which was being nationalized, it was open for the Applicant to

¹⁶ The same principle applies in a situation where MEU finds the request moot, i.e., non-receivable *rationae materiae*.

29. In th

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