



23. The Dispute Tribunal rejected Mr. Gehr's argument and concluded that the import of Articles 2(1), 3(1) and 8(1)(c) of the UNDT Statute was that

for the purposes of admissibility, the procedural requirement of submission for management evaluation equally applies to staff members and former staff members. Therefore, under these provisions, irrespective of whether an applicant is a current or a former staff member of the United Nations, he or she must request a management evaluation prior to filing his or her application with the Dispute Tribunal.

24. Addressing Mr. Gehr's argument that the interpretation of Staff Rule 11.2 exempted former staff members from the requirement for management evaluation prior to filing with the UNDT, the Dispute Tribunal Judge stated: "[E]ven assuming that staff rule 11.2(a), insofar as it is silent on whether a former staff member must request a management evaluation prior to filing an application with the [Dispute] Tribunal, contradicts the provisions of the [Dispute] Tribunal's Statute, the [Dispute] Tribunal is to assess the admissibility of the application only in light of its own Statute."

25. In the first instance, we are satisfied that the Dispute Tribunal correctly concluded that the import of Articles 2(1), 3(1) and 8(1)(c) of the UNDT Statute is that applications to the UNDT, be they from serving or former staff members, are only receivable if the applicant "has previously submitted the contested administrative decision for management evaluation".

26. The approach of the Dispute Tribunal in the present case is consistent with the jurisprudence of this Tribunal on this issue.²

27. With regard to the emphasis Mr. Gehr places on the words "where required", as contained in Article 8(1)(c) of the UNDT Statute, and his claim that the parameters of Staff Rule 11.2(a) (where there is reference only to staff members) exempt him from the requirement for management evaluation, we find no merit in this argument. The overarching intention of Article 8(1)(c) is that management evaluation is a mandatory first step, prior to invoking the jurisdiction of the Dispute Tribunal to receive an application under its competency.

² Planas v. Secretary-General of the United Nations , Judgment No. 2010-UNAT-049; Crichlow v. Secretary-General of the United Nations , Judgment No. 2010-UNAT-035.

28. Moreover, we note the very limited circumstances set out in Staff Rule 11.2(b) where a request for management evaluation is not required. The very specific reference to the two

33. Having regard to all of the foregoing, we are satisfied that the UNDT was correct in law in rejecting Mr. Gehr's application as not receivable by reason of his not having sought management evaluation of the administrative decision of 14 December 2011. His appeal is dismissed in its entirety.

Judgment

34. The Judgment No. UNDT/2012/070 is affirmed.

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Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States.

(Signed)

Judge Faherty, Presiding

(Signed)

Judge Lussick

(Signed)

Judge Chapman

Entered in the Register on this 24th day of May 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar