



## **Introduction**

**1. By application filed on 12 March 2015, the Applicant contests the decision to deny him dependency benefits for his wife and stepdaughter, retroactively to the date of his marriage.**

## **Facts**

**2.**





it would submit the documents to the Permanent Mission of Lebanon to the United Nations in New York.

16. On 17 January 2014 the Applicant requested management evaluation of the decision not to recognize his marital status for the purpose of United Nations entitlements.

17. On 23 January 2014, the Permanent Mission of Lebanon to the United Nations in New York advised OHRM that it had sent the case to the Lebanese Government.

18. By memorandum dated 7 February 2014, the Chief, Management Evaluation Unit (“MEU”) informed the Applicant that since his request for reconsideration of his marital status was still under consideration within the legislative process of the Organization, his request for management evaluation was premature, hence MEU did not have competence to review it.

19. On 26 June 2014, the Secretary-General issued ST/SGB/2004/13/Rev. 1. According to the revised bulletin, the personal status of a staff member is determined by the domestic law where the marital status was established.

20. By email of 19 August 2014, UNOV informed the Applicant that his

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f. The Applicant requests rescission of the denial of retroactive dependency benefits and to be granted such benefits from 2007 until 26 June 2014. He further requests moral damages for pain and frustration triggered by the Organization's denial of a basic human right.

26. The Respondent's principal contentions are:

a. Matters of national law are outside the competence of the Tribunal and the scope of the present application; the authority of the Organization is limited to register marriages contracted according to the respective national law of the competent authority, which, under the terms of the former ST/SGB, was that of the nationality of the staff member concerned (here Lebanon); in determining the personal status of staff members, the Organization is competent only to rely on and bound by choices made by national law, and there is no universally accepted principle as to what is a legally binding marriage;

b. In accordance with ST/SGB/2004/13, failing the recognition of his marital status by Lebanon, the Applicant's country of nationality, the Organization had no choice but to maintain his status as single; as such, the relevant regulations with respect of the determination of the personal status of staff members were correctly applied to the Applicant;

c. The Applicant was granted marital status and related benefits under the revised bulletin, effective 26 June 2014; since the provisions of the revised bulletin do not allow for retroactivity, the Applicant is not entitled to retroactive benefits dating back to 2007;

d.

**Consideration**

**27. The Tribunal first has to determine which decision the Applicant is contesting, and whether his application is receivable under the terms of its Statute. It recalls what the Appeals Tribunal held in Massabni 2012-UNAT-238, namely that:**

**2. The duties of a Judge prior to taking a decision include the adequate interpretation and comprehension of the applications submitted by the parties, whatever their names, words, structure or content they assign to them, as the judgment must necessarily refer to the scope of the parties' contentions. Otherwise, the decision-maker would not be able to follow the correct process to accomplish his**



30. The Tribunal notes that the change of the Applicant's personal status to "related and married" and the granting of the related benefits, as of 26 June 2014, constitutes a decision that is favourable to the Applicant, which, to the extent it is granting him a benefit, cannot be the subject of an application under the terms of art. 2.1(a) of the Tribunal's Statute (cf. Applicant UNDT/2012/110). The only aspect of the decision that is open to appeal is the fact that the benefits were not granted prior to the issuance of the revised bulletin, in other words, retrospectively.

31. In this respect, the Tribunal recalls the longstanding jurisprudence of the Appeals Tribunal that the reiteration of an original administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to the statutory time limits, which start to run from the date of the original decision (Sethia 2010-UNAT-079; Odito-Benito 2012-UNAT-196; Cremades 2012-UNAT-271). Thus, the Tribunal has to examine whether the decision of 19 August/10 September 2014 constitutes a mere confirmation of an earlier decision to deny the Applicant the benefits under the terms of former ST/SGB/2004/13; hence, if the application is irreceivable, *ratione materiae* (cf. Eggesfield 2014-UNAT-402), since the Applicant failed to file timely management evaluation against said decision.

32. The record shows that after a long and continuous dialog at various levels of the Organization to resolve the matter, the Applicant did file, on 17 January 2014, a first request for management evaluation against the decision not to recognize his marital status for the purpose of the United Nations entitlements under the terms of the former bulletin. The Management Evaluation Unit ("MEU") informed him on 7 February 2014 that his request in respect of the "first decision" of 26 August 2008 was time-barred. At the same time, it stated with respect to his request for reconsideration of his marital status, that his request for management evaluation was premature; hence, MEU did not have competence to review it, since the matter "was still under consideration within the legislative process of the Organization". The Tribunal notes that, indeed, the matter was still under review and that in light of the lack of responsiveness on the part of the Lebanese authorities, no final decision had been taken by the Administration at the time of

the Applicant's first request for management evaluation. Further, the record does not show that after the MEU response and prior to 19 August/10 September 2014, a final decision was taken in the matter.

33. Thereafter, the revised bulletin was issued on 26 June 2014, and following the above-referenced decision of 19 August/10 September 2014—which constitutes a final administrative decision, based on a new set of rules—the Applicant filed a timely request for management evaluation against the denial of retroactive benefits, on 14 October 2014.

34. Therefore, the Tribunal notes that the application is receivable, insofar as it is directed against the denial, through the decision of

37. The Appeals Tribunal recently “recall[ed] the general principle of law against retrospective effect/application of laws and [held] that since the incident in

41. First, the Tribunal notes that it does not have jurisdiction to deal with

45.

## Conclusion