
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2017/040

Judgment No.: UNDT/2017/069

Date: 28 August 2017

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

CASTELLI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**JUDGMENT
ON RECEIVABILITY**

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Nicole Wynn, ALS/OHRM, UN Secretariat

9. During the 2015- daughter who was eight years old and his son who was then four years old both attended the same school in Beirut.

10. By email dated 23 June 2016, the Applicant submitted to the UNIFIL Human Resources Management Section (HRMS) an education grant claim in respect of both his children.

11. On 28 June 2016, UNIFIL HRMS informed the Applicant that the claim in respect of his son was denied since the child was below the age of five during the 2015-2016 school year. In the same communication, UNIFIL HRMS informed the Applicant that claims for children younger than five are only accepted where the location mandates school attendance at an earlier age.

12. On 29 June 2016, the Applicant sent UNIFIL HRMS an unofficial translation of a Lebanese government D

17. On 26 October 2016, UNIFIL sent a *note verbale* to the Lebanese Ministry of Foreign Affairs and Emigrants seeking clarification concerning the mandatory age of formal education as well as the start and end of the Lebanese school year.

18. On 19 December 2016, the Lebanese Ministry of Foreign Affairs and Emigrants responded with a letter from the Ministry of Education and Higher Education stating the compulsory school start age was six years of age and the school year in Lebanon starts at the beginning of the month of September and ends in the last week of the month of June.

19. On 2 February 2017, the Applicant received the management evaluation outcome upholding the contested decisions.

Receivability

Respondent's submissions

20. The Respondent submits that the application is not receivable because the Applicant failed to seek timely management evaluation

c. The email of 30 June 2016 sought information from the Applicant to corroborate the claims he made on 29 June 2016 regarding the issue of minimum age for formal education in Lebanon.

d. The *note verbale* dated 26 October 2016, from the United Nations Department of Management to the Lebanese Ministry of Foreign Affairs and Emigrants, shows that the Respondent was still in the process of seeking information that would assist him in making an informed administrative decision on the matter.

e. The conclusion of the Management Evaluation Unit (MEU) dated 2

receivable.

Considerations

22. Was the contested administrative decision conclusively made and communicated to the Applicant on 28 June 2016 or 26 August 2016?

23. The Statute of the United Nations Dispute Tribunal provides in art. 2:

1.

decision must

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25. When the Applicant wrote to the Respondent asking for education grant for his two children on 23 June 2016, the response that was sent to him on 28 June 2016 was that his son who was then aged four was not eligible for the grant because he was below the stipulated age of five years. The said response cited also the provisions of ST/AI/2011/4 Amend.1 (Education grant and special education grant for children with a disability) which states in relevant part:

a lower minimum eligibility age for receipt of the education grant could be accepted if laws at a specific location mandated an earlier start of formal education.

26. By email, dated 29 June 2016, the Applicant sought to counter the position of the Respondent by referring him to a Decree issued by the State of Lebanon and dated 20 September 2010 which extends the start of kindergarten age to three years.

27. The Respondent immediately followed up with a reply to the Applicant stating that he was not able to decide on the issue and sent him another email the very next day 30 June 2016 asking him to send a copy of the State of Lebanon Decree that he had referred to enable a review of his case.

28. On 26 August 2016, the Respondent again wrote to the Applicant and informed him that after consultations and a further review of his claim for education grant in respect of his four-year old son, it was determined that the said claim could not be granted because the mandatory age of schooling in Lebanon was six years.

29. On 27 September 2016, the Respondent wrote to the Applicant and informed him that his request for reimbursement of mother tongue tuition in respect of his son was denied because that expense was a component of the education grant

37. MEU wrote to the Applicant on 2 February 2017. Thereafter, the Applicant filed his application with the Tribunal on 25 April 2017. In accordance with art. 8.1(i)(a) of the Statute, the Applicant filed his submissions with the Tribunal within the stipulated guidelines.

Judgment

38. This application is accordingly receivable *ratione materiae* and *ratione temporis*.

(Signed)

Judge Nkemdilim Izuako

Dated this 28th day of August 2017

Entered in the Register on this 28th day of August 2017

(Signed)

Eric Muli
Legal Officer, for,
Abena Kwakye-