

---

UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2021/058

Judgment No.: UNDT/2022/018

Date: 28 February 2022

Original: English

---

**Before:** Francesco Buffa

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

TOSON

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**JUDGMENT ON RECEIVABILITY**

---

**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Yun Hwa Ko, UNFPA

## **Introduction**

1. The Applicant is a staff member of the United Nations Population Fund (“UNFPA”) serving as Representative at the UNFPA Oman Country Office (“CO Oman”) within the Arab States Regional Office (“ASRO”) at the P-5 level.

## **Procedural History**

2. On 21 July 2021, the Applicant filed an application before the United Nations Dispute Tribunal to challenge the Respondent’s decision to finalise his performance appraisal for the year 2020; the process for which he contends was irregular. This application was registered as UNDT/NBI/2021/058.

3. The Respondent filed his reply on 19 August 2021, challenging the application on grounds of jurisdiction and merits.

4. On 24 January 2022, the Applicant was invited to attend a hearing on 24 January 2022 at 10:00 AM in the Tribunal’s hearing room.

## Considerations

### *The Applicant's Second Motion for Suspension of Proceedings*

9. The Tribunal carefully considered the Applicant's second motion for a stay of proceedings. The Applicant's *ex parte* filing of his medical reports was given due regard.

10. At the outset, the Tribunal notes that the Applicant's motion was essentially a reiteration of his previously filed and dismissed motion.

11. In Order No. 009 (NBI/2022), the Tribunal stated that it was not required to seek the Applicant's response to the Respondent's submissions on receivability; and that, indeed, the Tribunal can properly rule on its jurisdiction *proprio motu* and following its own inquiry, with or without hearing the parties' submissions on whether the application is receivable.

12. This principle was also underscored in *Cherneva* UNDT/2021/101, where the Court held thus:

[t]he Tribunal has the competence to review an application's receivability even if the parties do not raise the issue because "it constitutes a matter of law and the Statute prevents the [Tribunal] from receiving a case which is actually non-receivable" (see *Christensen* 2013-UNAT-335, para. 21).

13. The Tribunal is aware of the Applicant's health conditions, which however - also considering time and effort expounded by the Applicant on every motion for extension of time - cannot be considered serious to the extent of preventing him to file brief submissions on the receivability issue he might have had.



