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UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Judgment No. 2023-UNAT-1400



Lanla Fatma Kamara -Joyner  
(Appellant )

v.

Secretary -General of the United Nations  
(Respondent )

JUDGMENT

Counsel for Appellant: GeorgeIrving

Counsel for Respondent: Rupa Mitra

JUDGE KANWALDEEP SANDHU , PRESIDING .

1. Ms. Kamara-Joyner (the

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21. The Ombudsman stated that due to the conflict of interest between these roles, Ms. Kamara-Joyner had not been given any assignments as a Conflict Resolution Officer and would not receive any until the conflict no longer existed. The Ombudsman concluded that: “given your continued engagement with UNPAD as its president, I have decided to reprimand you for the continuation of the conflict of interest”. This communication was placed in Ms. Kamara-Joyner’s Official Status File.

22. On 16 June 2021, a Human Resources (HR) Officer in the Department of Operational Support (DOS) advised Ms. Kamara-Joyner that the Ombudsman had decided not to renew her fixed-term appointment, which was expiring on 31 August 2021. Ms. Kamara-Joyner replied, including by copy to the Secretary-General’s office, that she was surprised to learn of this decision from DOS, and not from the Ombudsman directly. She stated: “If this decision is by any chance shown to be related to my involvement in UNPAD, I would hereby call upon the Secretary-[G]eneral to abide by the assurances that (...) all such retaliatory actions against staff for speaking out against racism will be swiftly addressed”.<sup>14</sup>

23. The HR Officer told Ms. Kamara-Joyner that the Ombudsman’s “decision not to renew [her] appointment is based on the ongoing conflict of interest with [her] role as President of UNPAD, which is in conflict with [her] position as a conflict resolution officer requiring neutrality as per the mandate of the Office of the Ombudsman.(...) Due to this conflict of interest, [the Ombudsman] indicated that she has not been able to assign [Ms. Kamara-Joyner] any work related to conflict resolution, the role for which [she was ] recruited.”<sup>15</sup>

24. On 29 June 2021, Ms. Kamara-Joyner requested management evaluation of the decisions “to deny her the opportunity to perform her assigned work and the issuance of an unwarranted letter of reprimand”.

25. On 16 August 2021, Ms. Kamara-Joyner requested management evaluation of the decision not to renew her fixed-term appointment.

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<sup>14</sup> Appellant’s Annex 10 (16 June 2021 email, Subject: Fwd: Notification of the Ombudsman: Non-renewal of your Fixed-Term Appointment).

<sup>15</sup> *Ibid.*

26. On 20 August 2021, Ms. Kamar(t)AA,( M5.3 ( M5.3p (A)4 [7 )-13m)5.5 76 ( M2 [i39 0 89 5.1),,, Tm [(HE)-5.

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the Order on suspension of action was an interim measure, not a final judgment, and thus the principle of *res judicata* did not apply.<sup>24</sup>

Submission s

The Appellant's App eal

37. Ms. Kamara-Joyner



48. The Secretary-General submits that Ms. Kamara-Joyner is raising a new argument about Section 3.11 of the Terms of Reference for UNOMS that was not presented to the UNDT and should be disregarded. In any event, the Secretary-General points out that Ms. Kamara-Joyner did not provide the full quotation, which is:

An ombudsman shall advocate fairness and equitably administered processes and shall not advocate on behalf of any party.

49. The Secretary-General submits that the UNDT did note that Ms. Kamara-Joyner's role as President of UNPAD was an interest entirely compatible with the goals of the United Nations and the Secretary-General's Task Force on Racism; however, the UNDT correctly found that Ms. Kamara-Joyner was advocating not generally for racial equality, but specifically on behalf of another staff member, while she was assigned to that staff member's case as a Conflict Resolution Officer for UNOMS. The UNDT found this to have undermined the neutrality and independence of UNOMS, and Ms. Kamara-Joyner has not contradicted those findings in her appeal.

50. The Secretary-General submits that there is no requirement under

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to disclose an actual or possible conflict can seriously disrupt operations of the Organization and pose detriment to the Organization's integrity and reputation as a whole, and may lead to the imposition of disciplinary measures against the staff member.<sup>34</sup>

77. Ms. Kamara-Joyner did not disclose her activities with UNPAD and did not expressly seek the approval of the current Ombudsman as she was obligated to. Further, she was obliged to follow the instructions of UNOMS on how to avoid and remove the conflict. In an e-mail of 24 October 2019 and further verbal and e-mail exchanges, the Ombudsman advised her of the existence of a conflict and requested her to step down from the presidency of UNPAD. Ms. Kamara-Joyner did not do so. Therefore, she violated Staff Rule 1.2(q) and Section 3.11 of ST/SGB/2016/9, and was subject to either a disciplinary or an administrative measure.

78. Ms. Kamara-Joyner argued that she was not consulted on and did not receive the Ethics Office's opinion. In March 2021 the Ethics Office, at the Ombudsman's request provided an opinion that Ms. Kamara-Joyner's role as President of UNPAD gave risk to a situation of conflict of interest.

79. Ms. Kamara-Joyner provides no procedural requirement that the Ethics Office opinion be provided to her or that she be D.9 (a)7 (5J /T9 (a)7 (u81B)e)-1

81. As a result, we find that the Dispute Tribunal did not err when it found that the facts underlying the reprimand were established by a balance of probabilities.

82. Next, Ms. Kamara-Joyner requests that the Appeals Tribunal review the proportionality of the administrative measure.

83. The Appeals Tribunal has said that “If there is a rational connection between the purpose of Staff Rule 10.2(b), the purpose of the decision to impose the administrative measures, the information upon which the decision is based and the reasons for the decision, then the exercise of discretion will pass the test of rationality and will be lawful.”<sup>37</sup>

84. The UNDT correctly judged the validity of the Secretary-General’s exercise of discretion in imposing the administrative measure which was within the range of appropriate options particularly as Ms. Kamara-Joyner specifically failed to follow the Ombudsman’s instruction to resign as President of UNPAD. The Disputes Tribunal found that the Secretary-General’s decision was within the range of appropriate options and that the Ombudsman’s instruction was not binding on the Secretary-General. The Disputes Tribunal found that the Secretary-General’s decision was within the range of appropriate options and that the Ombudsman’s instruction was not binding on the Secretary-General.



MEU rejected her request as it was submitted outside of the prescribed 60 calendar days which ended on 15 August 2021, a Sunday.

94. We find that the Dispute Tribunal did not err in determining that her application was not receivable for failure to file a timely management evaluation.

95. Ms. Kamara-Joyner attempts to rely on the UNAT's practice, which accords with the UNDT's practice, that time limits are extended to the next working day of the Registry when the last day of the time period is not a working day.

96. This argument must fail. T

that falls on a holiday or weekend. There is no authority to allow a staff member the “extra” day to submit a request for management evaluation on a Monday as this has the effect of “suspending” the deadline over the weekend, contrary to Article 8(3).

100. In addition, Staff Rule 11.2(c) provides that a request for a management evaluation shall not be receivable by the Secretary General unless it is “*sent* within 60 calendar days” from the date on which the staff member received notification of the administrative decision to be contested.<sup>43</sup>

101. A plain-and-ordinary meaning interpretation of this language is that the Rule refers to the “sending” of the request and not the Administration “receiving” the request. Therefore, the fact that the deadline falls on a day that is a holiday or a weekend, which may mean that the Administration does not receive the request until the next working day, does not prevent the staff member from engaging in the act of “sending” a request for management evaluation, for example, by e-mail that can be sent on any day of the week.

102. Therefore, regardless of the Tribunals’ respective practices on calculating timelines for other matters, there must be strict enforcement of the deadlines for management evaluation.

103. Finally, Ms. Kamara-Joyner argues that the issue of receivability was *res judicata* as the

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