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Case No.: UNDT/GVA/2009/94

Judgment No.: UNDT/2011/111

Date: 24 June 2011





a. Her request for administrative review is not time-barred as it was filed as soon as she was notified by the Office of the Joint Ombudsperson that they were terminating the informal negotiations on her case. She is not requesting the Tribunal to suspend or waive the time limits, but is

- a. The application is irreceivable *ratione temporis*. The Applicant was notified of the impugned decision on 3 January 2008. Therefore, in order to be admissible, the Applicant's request for administrative review should have been made by 2 March 2008. The Applicant's request dated 19 June 2009 was thus time-barred;
- b. The Tribunal has no jurisdiction to waive the time limit in former staff rule 111.2(a). The Appeals Tribunal held in *Costa and Trajanovska*<sup>1</sup> that the time limits prescribed for administrative review cannot be waived by the Tribunal;
- c. The Applicant failed to demonstrate any exceptional circumstances that could justify a waiver of the mandatory time limit prescribed by former staff rule 111.2. In *Zia*<sup>2</sup> the Tribunal held that pursuant to former staff rule 111.2(a) a referral to the Ombudsman does not have the effect of suspending the two-month time limit established in the rule.

#### The issues

16. In order to decide if this application is receivable it is necessary to canvass the following issues:

- a. What is the effect of the terms of reference of the Office of the Joint Ombudsperson on the time limits of former staff rule 111.2?
- b. Is the request for administrative review dated 19 June 2009 receivable?

#### Consideration

17. Former staff rule 111.2(a) states:

- (a) A staff member wishing to appeal an administrative decision pursuant to staff regulation 11.1 shall, as a first step, address a letter to the Secretary-General requesting that the

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<sup>1</sup> *Costa* 2010-UNAT-036, *Trajanovska* 2010-UNAT-074

<sup>2</sup> *Zia* UNDT/2010/198





restrictions in former staff rule 111.2(a). They should be modified to avoid