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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2017/111

Judgment No.: UNDT/2019/131

Date: 24 July 2019

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

MPAMA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

**ON RECEIVABILITY**

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**Counsel for Applicant:**

## **Introduction**

1. On 8 December 2017, the Applicant, a former Senior Secretary to the Deputy Director at the G-5 level, with the United Nations High Commissioner for Refugees Office, filed an application contesting the decision to terminate her indefinite contract dated 13 September 2016.

2. receivable *ratione temporis* as, without having requested a waiver for extension of time, the Applicant failed to file her application before the Dispute Tribunal within the 90-day period prescribed under art. 8.1 (d)(i) a. of its Statute after her receipts of the management evaluation.

## **Factual and procedural background**

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or to the expiration of the deadline and that the Applicant did not file such written request before the deadline expired.

14. As described above, it is undisputed that the Applicant filed the present application after the mandatory time limit had expired. The only remaining question is whether the Tribunal is competent to suspend or waive the deadline for the filing of an application under art. 8.3 of its Statute when the Applicant requested such suspension or waiver after the time limit expired, and, if so, if such suspension or waiver is warranted.

15. In *Nikwigize* 2017-UNAT-731, citing *Thiam* 2011-UNAT-144, the Appeals Tribunal held that the Dispute Tribunal cannot exercise its discretion under art. 8.3 of its Statute when a written request for suspension or waiver of time limit is filed after the statutory time limit for filing the application had lapsed. The Appeals Tribunal further held that the Dispute Tribunal is not competent to consider whether there were exceptional circumstances to justify the delay in filing the application when a written request was filed late.

16. Therefore, under the jurisprudence of the Appeals Tribunal, this Tribunal is not competent to suspend or waive the statutory time limit under art. 8.3 of its Statute or even to consider whether there were exceptional circumstances to justify the delay in filing the application.

17. Accordingly, the application is not receivable *ratione temporis* as it was filed after the statutory time limit under art. 8.1 of its Statute expired.

