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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/001

Judgment No.: UNDT/2023/064

Date: 23 June 2023

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Isaac Endeley

RODRIGUEZ SANTORUM

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

**ON RECEIVABILITY**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Adrien Meubus, LPAS/UNOG

## **Introduction**

1. On 4 January 2023, the Applicant, who submits he is a staff member of the International Organization for Migration (“IOM”), filed an application contesting the rejections of his requests for after-service health insurance (“ASHI”) by (a) IOM and (b) the Health and Life Insurance Section (“HLIS”) in the United Nations Secretariat.

2. On 16 January 2023, the Respondent filed the reply in which he claims that the application is not receivable and requests that the application be disposed of by way of summary judgement.

## **Consideration**

### *Receivability*

3. The Appeals Tribunal in *Fasanella* 2017-UNAT-765 held that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review”. As such, “the Dispute Tribunal may consider the application as a whole, including the relief or remedies requested by the staff member, in determining the contested or impugned decisions to be reviewed”. See para. 20.

4. The Tribunal notes that in Judgment No. UNDT/2023/062 in Case No. UNDT/NY/2022/047, which concerns exactly the same contested decisions as the ones of the present case, the application was found not receivable because: (a) the Tribunal has no jurisdiction to undertake a judicial review of any decision of IOM that forms part of the application; and (b) the Applicant did not file a request for management evaluation against the HLIS decision before submitting the application to the Dispute Tribunal.

5. The part of the present case concerning IOM is therefore not receivable under the legal doctrine of *lis pendens*, which means that the same issue cannot be adjudicated

in two different cases (see, for instance, the Appeals Tribunal in *Haroun* 2017-UNAT-720).

6. With regard to the HLIS decision, the Applicant refers to his request for management evaluation of 4 November 2022. As the application in the present case is filed *after* this date, this part of the application is therefore, from this perspective, now receivable under staff rule 11.2.

7. The Respondent, however, contends that this issue is not receivable, because:

a. The Applicant “

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We regret to inform you that based on the details provided to us as



- c. The appeal against the decision of HLIS is receivable.

*(Signed)*

Judge Joelle Adda

Dated this 23<sup>rd</sup> day of June 2023

Entered in the Register on this 23<sup>rd</sup> day of June 2023

*(Signed)*

Isaac Endeley, Registrar, New York