

UNITED

## **Background**

1. The Applicant is a former Human Resources Officer with the United Nations-African Union Hybrid Operation in Darfur (UNAMID).
2. On 5 August 2021, he filed an application contesting what he describes as eight outstanding claims for 4,000 former UNAMID national staff members.
3. The deadline for submission of the reply was 18 March 2022.
4. On 17 March 2022, the Respondent filed a motion to have receivability addressed as a preliminary matter pursuant to arts. 9 and 19 of the UNDT Rules of Procedure. In the said motion, the Respondent also requested the Tribunal to suspend the 18 March 2022 deadline for the filing of the reply pending the Tribunal's

the Applicant may only contest an administrative decision that directly affects his terms of appointment.

b. Assuming that the application is construed to be brought on behalf of the Applicant only, it is still not receivable. As a former staff member, the Applicant does not contest a decision relating to his former terms and conditions of employment. Nor does he claim a violation of a right arising from his status as a staff member. He does not identify any decision taken that was in non-compliance with his contract of employment in line with art. 2.1(a) of the UNDT Statute. Administrative decisions must be identified with precision and particularity.

c. The only decision to which the Applicant has referred to is a 28 August 2021 letter regarding payment of a salary refund from 1 September 2015 to 31 January 2016. If the Dispute Tribunal finds this as a contestable administrative decision, the Dispute Tribunal lacks subject matter jurisdiction for lack of timely management evaluation. The 28 August 2021 letter only reiterated a June 2016 decision that was communicated to the UNAMID national staff association of which the Applicant was aware or reasonably should have been aware when it was made. The 28 August 2021 letter does not constitute a new decision. Reiteration of an original administrative decision does not reset the clock with respect to applicable statutory deadlines.

8. In his response to the Respondent's motion, the Applicant argued as follows:

a. The interests of judicial economy and efficiency will be better served when the Tribunal accepts group litigation which involve a number of individuals with similar claims



jurisprudence as an authority for the request that the application may be split into two, thereby necessitating two distinct

15. Therefore, the Respondent's motion should not be granted as doing so would be inappropriate for the fair and expeditious disposal of the case and would not do justice to the parties.

**Ruling**

16. The Respondent's motion to suspend the time limit within which to file a reply pending determination of the Tribunal on the question of receivability is denied.

**Order**

17. It is accordingly ordered that the Respondent shall file a reply in accordance with the Practice Directions, which shall not exceed 10 pages, on the question of receivability and the merits by 5.00 p.m. (Nairobi time) on 18 April 2022.

*(Signed)*

Judge Rachel Sophie Sikwese

Dated this 7<sup>th</sup> day of April 2022

Entered in the Register on this 7<sup>th</sup> day of April 2022

*(Signed)*

Eric Muli, Legal Officer, for  
Abena Kwakye-Berko, Registrar, Nairobi