

UNITED NATIONS DISPUTE T

8. On 23 May 2022, the Applicant wrote to the UNHCR Chief of Staff Welfare Section (“CSWS”) requesting for a special constraint for an initial period of six months and a reduction in her Standard Assignment Length (“SAL”) to release her from her assignment at the Pemba duty station.⁷The Applicant further requested the UNHCR Special Constraints Panel (“SCP”) and the Division of Human Resources (“DHR”) to consider her requests for telecommuting from the USA. The Applicant requested DHR to take into account her special constraint and approved leave plan until 10 June 2022. In the alternative, she asked to be granted Special Leave with Full Pay (“SLWFP”).⁸

9. By email dated 10 June 2022, the Head of the UNHCR sub office Pemba asked the Applicant if she planned to return to work from annual leave on 13 June 2022 or if she was considering placement on Special Leave Without Pay (“SLWOP”) so that the operation could search for a candidate on a temporary appointment before advertising

12. On 11 November 2022, the management evaluation entity in the UNHCR Deputy High Commissioner's Office ("HQME") replied to the Applicant's query informing that her MER was still under consideration.¹³

13. On 14 November 2022, the Applicant filed the present motion for extension of time to file an application.¹⁴ She requested 90 calendar days from the date she will have received the management evaluation response or 90 calendar days from 22 November 2022, whichever is earlier.¹⁵ She motivates her motion by the desire to respond to the arguments of the HQME.

Consideration

14. Article 8.1(d)(i) of the UNDT Statute, provides that, the application must be filed within the following deadlines:

- a. Within 90 calendar days of the applicant's receipt of the response by management to his or her submission; or
- b. Within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices.

15. The Applicant was notified of the contested decision on 11 May 2022. She requested management evaluation on 10 July 2022, on the last day of the deadline, and thus, should have received a reply on or around 24 August 2022 at the latest. She has not received any response

preparation of an application in all kinds of cases and by staff members serving on all levels. Whereas the Tribunal finds it regrettable that HQME failed to respond, it notes, however, that since 24 August 2022, the Applicant must have taken into account that the management evaluation would not follow, and that she may need to file her application in the absence of it. The Applicant's case is not complex factually, and she managed to present her argument eloquently in the MER. Seeking, virtually in the last moment, and without any exceptional factor intervening, to have the time to file an application literally doubled, is baseless.

Order

17. The motion is refused.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 18th day of November 2022

Entered in the Register on this 18th day of November 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi