		Case No.:	UNDT/NY/2016/036
	UNITED NATIONS DISPUTE TRIBUNAL	Judgment No.:	UNDT/2016/106/Corr.2
		Date:	4 August 2016
		Original:	English

Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Morten Albert Michelsen, Officer-in-Charge

AUDA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Counsel for Respondent:
ALS/OHRM, UN Secretariat

Notice: This Judgment has been corrected in accordance with art. 31 of the Rules of Procedure of the United Nations Dispute Tribunal.

Introduction

1.   The Applicant, a former United Nations staff member with Department for General Assembly and Conference Management, filed an application in which he contested the alleged decision of the Registrar of the United Nations Dispute Tribunal in New York to   reject his application for interim relief without informing him.

2.   As a preliminary issue, the Tribunal will examine the receivability of the application as it raises an issue of *ratione materiae*, notably of whether this is a type of decision over which this Tribunal has jurisdiction and therefore competence under the Dispute Tribunal Statute.

Facts

3.   On 27 July 2016, the Applicant filed his application in which he summarized the facts of the case as follows:

> On Thursday, 23 June 2016, the Applicant filed an application for interim relief under Article 10.2 of the Statute of the UNDT through the eFiling portal immediately following the filing of an application on merits. The submissions were properly made in accordance with the rules of procedure of the UNDT and duly acknowledged by emails from the New York Registry on 23 June 2016, respectively at 4:49 pm and 4:53 pm. The two notification emails were identical and stated (*emphasis added*):
>
> review. *You will be sent an email notification after it has been ascertained that the application is in compliance with article 8 of the Rules of Procedure of the United Nations Dispute Tribunal.*
>
> On Friday, 24 June 2016 at 3:30 pm, the Applicant inquired about the status of the applications filed. At 5:59 pm, the Applicant received an email from the New York Registry which acknowledged the filing of the application on merits under Case No. UNDT/NY/2016/028 and transmitted it to the Respondent. This was followed by another email from the Registry at 6:04 pm which requested the Applicant to refile the motion for interim measures under Case No.

UNDT/NY/2016/028, which was done instantly. Afterwards, the Applicant received at 6:26 pm an automatically generated notification that the Applicant has made a filing (type: Motion for interim measures) to Case No. UNDT/NY/2016/28 without specifying the submission date.

By email dated Monday, 27 June 2016 at 11:47 am, the New York Registry acknowledged receipt of a motion for interim

through the
Respondent was to file his reply, if any, by 1:00 p.m. on Wednesday, 29 June 2016.

On the same day, Monday, 27 June 2016 at 5:06 pm, the Applicant wrote to the New York Registry providing a timeline of the applications filed and stating:

filings, it follows from the above that the date of filing of the motion for interim measures should be 23 June 2016, as it is not up to the Applicant to determine under which case a motion should be submitted or where it should be supposedly filed, all of which

Having received no response from the Registry, the Applicant followed up on the matter by an email on Tuesday day 28 June 2016 at 12:19 pm.

On Wednesday, 29 June 2016 at 11:07 am, the New York Registry responded to the Applicant (*emphasis added*):

the application on the merits, given case number UNDT/NY/2016/028, was filed on 23 June 2016. The document entitled application for interim relief", filed in a separate case eventually ***rejected***, was also received on 23 June 2016. *In accordance with article 14 of the Rules of Procedure, a motion for suspension of action during the proceedings must be filed within the substantive case and thus you were requested by the Registry to refile the motion in case number UNDT/NY/2016/028.* We appreciate your diligence in refiling the motion on 24 June 2016.

In order to clarify the acknowledgement sent on 27 June 2016, the Tribunal confirms that both the application on the merits and the application for interim relief were received on 23 June 2016 in

The chain of email exchanges referred to above is given in Annex 1.

10.   , it follows without question that the

rejection of creating   motion for interim relief

was decided in Case No. UNDT/NY/2016/028.

11.   The current system of internal justice at the United Nations, including the

Dispute Tribunal, was established by the General Assembly in its resolution on

Paragraph 4   states that the system is to be

                              it is further written

administration of justice should comprise two tiers, consisting of a first instance, the

United Nations Dispute Tribunal, and an appellate instance, the United Nations

Appeals Tribunal, rendering binding decisions and ordering appropriate remedies.

12.   The competent entity to review and adjudicate on appeals against decisions of

the Dispute Tribunal is the Appeals Tribunal which is mandated by the Appeals

Tribunal Statute, which in art. 1

present statute as the second instance of the two-tier formal system of administration

of justice, to be known as th

provides   [t]he Appeals Tribunal shall be competent to hear and pass judgement

on an appeal filed against a judgement rendered by the United Nations Dispute

Tribunal. According to the consistent jurisprudence of the Appeals Tribunal, the

Appeals Tribunal   a question of whether the Dispute

Tribunal has   *Wamalala* 2013-

UNAT-300, para 18) and the Appeals Tribunal

Applicant to instead file the said motion under the correlated substantive case. Since this is clear from the application, it is not necessary to instruct the Respondent to file a reply.

Conclusion

14.   The application is rejected as not receivable *ratione materiae*.

(Signed)

Judge