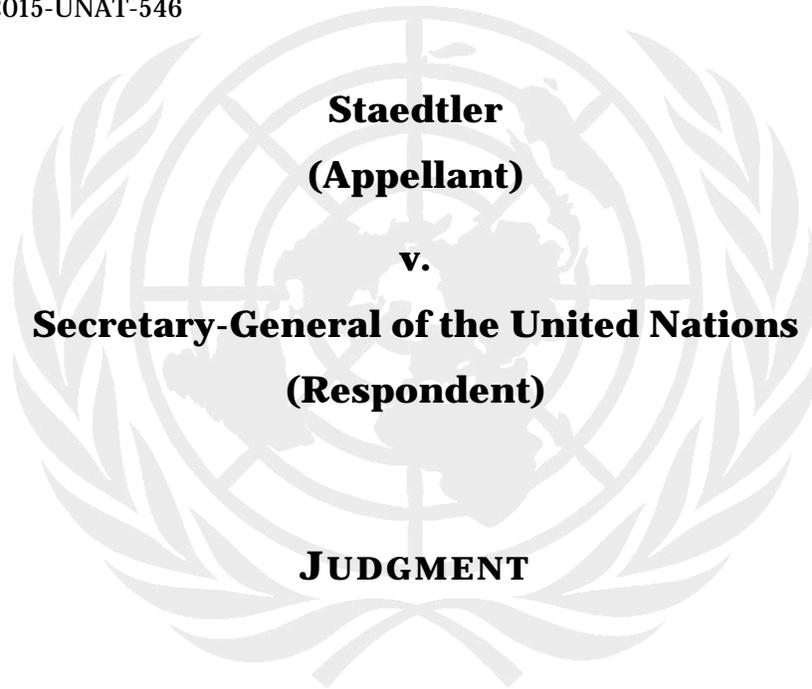




**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2015-UNAT-546



**Staedtler  
(Appellant)**

**v.**

**Secretary-General of the United Nations  
(Respondent)**

**JUDGMENT**

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**Before:** Judge Luis María Simón, Presiding  
Judge Richard Lussick  
Judge Sophia Adinyira

**Case No.:** 2014-629

**Date:** 2 July 2015

**Registrar:** Weicheng Lin

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**Counsel for Mr. Staedtler:** Self-represented

**Counsel for Secretary-General:** Amy Wood

**JUDGE LUIS MARÍA SIMÓN, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal of Judgment No. UNDT/2014/057, issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi on 30 May 2014, in the matter of *Staedtler v. Secretary-General of the United Nations*. Mr. Marc Staedtler filed his appeal on 28 July 2014, which he perfected on 26 August 2014 pursuant to Order No. 195 (2014). The Secretary-General filed his answer on 27 October 2014.

**Facts and Procedure**

2. On 13 September 2011, Mr. Staedtler joined the services of the United Nations Human Settlements Programme (UN-Habitat) as a Technical Officer at the P-4 level on the basis of a one year fixed-term appointment, to expire on 12 September 2012. He was recruited against a project post funded by the Government of Libya and was to serve in Tripoli, Libya, collocated within the Libyan Urban Planning Authority (UPA) to support their work.

3. In January 2012, Mr. Staedtler raised with the Director of the project office and others several concerns he harboured as to practices within UN-Habitat that he believed needed to be changed. In particular, he queried whether it was appropriate for the then Chairman of the UPA to also act as pseudo National Coordinator of the UN-Habitat project office in Tripoli, thereby controlling United Nations funds when he was not a United Nations staff member. Mr. Staedtler questioned whether this arrangement respected United Nations project management and procurement rules and highlighted the importance of acting in conformity with these rules.

4. On 5 February 2012, the UPA Chairman wrote to UN-Habitat and requested that they withdraw Mr. Staedtler from Libya.

5. On 7 March 2012, after ongoing discussions between UN-Habitat and UPA had failed to change the position of UPA, UN-Habitat decided to withdraw Mr. Staedtler from Libya and to reassign him to the UN-Habitat Office in Amman, Jordan, effective 1 April 2012, for the remainder of his fixed-term appointment. In the Jordan office, Mr. Staedtler was provided with new terms of reference.

6. In June 2012, Mr. Staedtler's first reporting officer (FRO) prepared Mr. Staedtler's 2011-2012 performance appraisal (ePAS) and gave him a rating of "successfully meets performance expectations". On 16 July 2012, Mr. Staedtler's second reporting officer (SRO) finalized the ePAS. While the SRO did not make any changes to the FRO's evaluation, the SRO commented that Mr. Staedtler gave "an overall good but mixed performance" and noted that Mr. Staedtler needed to be more diplomatic and collaborative. Mr. Staedtler, questioning the basis for this "deviating evaluation", declined to sign off on this evaluation.

7. By letter dated 31 August 2012, the Senior Programme Management Officer for the Regional and Country Office (Senior Programme Manager) reminded Mr. Staedtler that his contract was due to expire on 12 September 2012, but advised that since additional funding had been secured against his project post, his contract would be extended to 31 December 2012.

8. Under this extension and effective 13 September 2012, Mr. Staedtler reported to a new FRO. However, on the same day Mr. Staedtler's previous FRO initiated Mr. Staedtler's performance appraisal for the new 2012-2013 cycle. This prompted Mr. Staedtler to request his previous FRO to reflect the changes in his reporting line pursuant to his reassignment to Jordan in the "system".

9. On 5 November 2012, without Mr. Staedtler having entered any comments on his mid-point review for the 2012-2013 ePAS cycle, Mr. Staedtler's previous FRO signed off on the mid-point review. Mr. Staedtler claims he learned of this on 7 November 2012 and he subsequently disputed the finalization of his mid-point review without him having had an opportunity to comment on the observations of his previous FRO, which Mr. Staedtler alleged misrepresented his performance.

10. In November 2012, Mr. Staedtler was informed that his FRO could "roll back" the ePAS to the point of the mid-point review to allow Mr. Staedtler to insert his comments and self-evaluation. In March 2013, Mr. Staedtler was informed that his ePAS had been "rolled back" to the point requiring "staff member self-evaluation" for him to enter his comments. Mr. Staedtler responded that this did not resolve his complaint of being deprived of his right to comment on his mid-point review, and indicated that he would not enter comments as to his "self-evaluation".

11. On 26 November 2012, Mr. Staedtler was advised by e-mail to liaise with his supervisor concerning the necessary formalities that needed to be completed by 31 December 2012 regarding his separation.

12. On 4 December 2012, Mr. Staedtler requested reasons for the non-renewal of his appointment. He was informed by reply of the same day that the funds that had been exceptionally approved for the duration of his extended appointment were exhausted.

13. On 27 December 2012, Mr. Staedtler made a request to the Ethics Office for protection against retaliation. He claimed, inter alia, that his FRO and SRO were involved in a “campaign of retaliation” against him for reporting “gross breaches of the United Nations project management and procurement rules and regulations”.

14. On 31 December 2012, Mr. Staedtler was separated from service with UN-Habitat.

15. On 9 January 2013, Mr. Staedtler requested management evaluation of three decisions: the decision of his SRO to finalise his e-PAS for 2011-2012 in an arbitrary and unfair manner; the decision of his previous FRO to deprive him of the right to comment in the mid-point review of his 2012-2013 ePAS; and the decision not to renew his appointment and to separate him from service.

16. On 2 February 2013, the Ethics Office rejected Mr. Staedtler’s request. The Ethics Office informed him that it did not consider that he had reported “misconduct” as defined by the Secretary-General’s Bulletin ST/SGB/2005/21 on “Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations”. Further, while his other reports raised concerns about the management chain in UN-Habitat, they did not contain evidence to support a reasonable belief that misconduct had been committed by a United Nations staff member.

17. On 15 February 2013, Mr. Staedtler also requested management evaluation of the decision of the Ethics Office rejecting his request for protection against retaliation. On 21 February 2013, the Management Evaluation Unit (MEU) informed Mr. Staedtler that his request was not receivable as the MEU did not have competence to review decisions taken by the Ethics Office.

18. On 18 March 2013, the MEU also rejected Mr. Staedtler's first request of 9 January 2013. With respect to the individual claims therein, the MEU found that his first claim concerning comments in his 2011-2012 ePAS was made out of time and was thus not receivable, his second claim concerning the mid-point review of his 2012-2013 ePAS was moot, and his third claim concerning non-renewal of his appointment was rejected as the decision was valid.

19. On 20 May 2013, Mr. Staedtler filed an application with the UNDT challenging: the MEU decision that found that his challenge to the comments entered by his SRO in his 2011-2012 ePAS was time-barred; the denial of his right to comment on his mid-point review for his 2012-2013 ePAS; the failure by the Ethics Office to find that he had been subjected to retaliation; and UN-Habitat's decision not to renew his appointment.

20. On 30 May 2014, the Dispute Tribunal issued the Judgment currently under appeal. The UNDT dismissed Mr. Staedtler's application in its entirety, finding that:

(a) The challenge to the inclusion of the comments of his SRO in his 2011-2012 ePAS was not receivable as, having received a positive rating therein, he had no right to challenge his 2011-2012 ePAS, and it did not constitute an "administrative decision" that negatively impacted his conditions of service;

(b) The challenge to the failure of his previous FRO to allow him to comment on his mid-point review for the 2012-2013 cycle was moot, given Mr. Staedtler had subsequently been given the opportunity to enter his comments in the system, and had failed to do so;

(c) The challenge to the findings of the Ethics Office, namely that the content of Mr. Staedtler's reports did not constitute a "protected activity" pursuant to ST/SGB/2005/21, was receivable but without merit; and

(d) His challenge in respect of UN-Habitat's decision not to renew his fixed-term contract beyond 31 December 2012 was not receivable as he had first been notified that his contract would not be renewed on 31 August 2012, and not 26 November 2012 as he contended.

## Submissions

### Mr. Staedtler's Appeal

21. The UNDT erred on a question of law when it found that his challenge to his 2011-2012 ePAS was not against an appealable administrative decision as there was no negative impact to him. The inconsistency in the comments in his ePAS deprived him of his due process right to a "contradiction-free evaluation". Further, he was subjected to a gross abuse insofar as he cannot challenge the SRO's negative comments given that Administrative Instruction ST/AI/2010/5 (Performance Management and Development System) does not allow staff members to seek review of ratings of "successfully meets performance expectations". This has a direct and negative impact on his due process rights insofar as the comments lastingly damage his professional reputation. Further, the UNDT held in *Ngokeng* that comments provided in the performance appraisal documents are administrative decisions within the meaning of Article 2(1)(a) of the UNDT Statute and, consequently, are challengeable.<sup>1</sup>

22. The UNDT erred on a question of fact and law when it dismissed Mr. Staedtler's claim concerning his 2012-2013 ePAS cycle. Contrary to the UNDT's finding, the Administration deliberately refused to rectify its initial failure as it did not "roll back the ePAS in March 2013 to the stage of the Mid-term-review but only to the stage of the End-of-year-performance-appraisal". The issue was therefore not moot. The sole means to rectify the violation of his right to provide comments on his mid-term review is to allow him to provide them in the corresponding section of the ePAS document.

23. The UNDT erred on a question of fact and law when it determined that his request for management evaluation of the non-renewal decision was out of time and not receivable. None of the involved parties, including the Administration which issued the letter, interpreted the letter of 31 August 2012 to constitute a non-renewal notice. The UNDT erred when it ignored the Organization's obligation to act in good faith and failed to require that a non-renewal notice contain unequivocal information so that a staff member may exercise his or her right to appeal, as required by the jurisprudence of the Appeals Tribunal.<sup>2</sup> The UNDT finding is also contrary to the Appeals Tribunal's jurisprudence which holds that a non-renewal decision is a

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<sup>1</sup> Citing *Ngokeng v. Secretary-General of the United Nations*, Judgment No. UNDT/2013/061.

<sup>2</sup> Citing *Manco v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-342; *Obdeijn v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-201.

challengeable administrative decision, as distinct from a notice about non-expectancy of renewal.<sup>3</sup> The finding also ignored that he sought informal resolution through the Ombudsman between 26 September and 6 December 2012.

24. The UNDT also exceeded its competence and erred on a question of fact and law when it dismissed his challenge to the Ethics Office's rejection of his protection request on the grounds it did not satisfy ST/SGB/2005/21. Mr. Staedtler did not submit his misconduct report to the Executive Director of UN-Habitat because this requirement was not clear from the face of ST/SGB/2005/21. The UNDT erred when it confirmed the Ethics Office's finding that requests should be addressed solely to the highest-level official of a United Nations entity when Mr. Staedtler had clearly submitted it to senior management-level officials. The UNDT also erred when it failed to find that Mr. Staedtler's communications established a reasonable belief that misconduct occurred.

25. The UNDT committed an error of procedure when it denied the disclosure of decisive information that would support his claim that the challenged non-renewal decision, while premised on an alleged shortage of funds, was improperly motivated by personal prejudice and bias. Contrary to the UNDT's finding, the Secretary-General did not sufficiently respond to his request for production and this failure unlawfully denied him access to crucial information that formed part of the UNDT's considerations.

26. Mr. Staedtler requests that this Tribunal rescind the UNDT Judgment, order compensation as requested and refer the individuals he named in his appeal to the executive head of UN-Habitat for possible action to enforce accountability pursuant to Article 9(5) of the Appeals Tribunal Statute.

### **The Secretary-General's Answer**

27. The UNDT properly concluded that Mr. Staedtler's claims concerning his 2011-2012 ePAS were not receivable as there was no "administrative decision" under review as the Appellant was given a satisfactory rating. The UNDT's findings are consistent with the jurisprudence of the Appeals Tribunal, which has consistently held that the UNDT has the power to review only those decisions made by the Administration that have a direct and negative impact on a staff member's

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<sup>3</sup> Citing *Igbinedion v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-411; *Obdeijn v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-201.

rights. Furthermore, as properly found by the UNDT, the Appellant did not identify any adverse administrative decision resulting from his performance appraisal. In any event, the SRO made the contested comments in July 2012, whereas Mr. Staedtler did not request management evaluation until January 2013. Accordingly, he had clearly failed to file a request challenging his SRO's comments within the 60-day deadline pursuant to Staff Rule 11.2(c). Lastly, Mr. Staedtler's reliance on the UNDT judgment in *Ngokeng* is legally unsustainable, as the Appeals Tribunal vacated that judgment on appeal, finding that the UNDT had violated the clear jurisdictional limits on its power to review performance appraisals when they are deemed to be satisfactory.<sup>4</sup>

28. The UNDT properly rejected Mr. Staedtler's claims concerning his 2012-2013 ePAS because even if it were accepted that there had been a minor procedural irregularity in the manner in which the mid-point review had been conducted, the UNDT properly found that the irregularity had been rectified, and that Mr. Staedtler did not suffer any harm. Further, the Appeals Tribunal's jurisprudence shows that the Appeals Tribunal has been reluctant to examine the merits of administrative decisions that have been rescinded or superseded by subsequent actions by the Administration and thereby rendered moot.<sup>5</sup> Mr. Staedtler's challenges merely reflect his disagreement with the conclusions reached by the UNDT and repeat factual allegations that he made before the UNDT. Further, as the MEU noted, the matter was not ripe for review because at the time Mr. Staedtler challenged his evaluation, the 2012-2013 ePAS performance appraisal process had not yet been completed.

29. The UNDT properly held that Mr. Staedtler's claims concerning the non-renewal decision were not receivable, in that Mr. Staedtler was first notified that his contract would not be renewed on 31 August 2012, and not 26 November 2012 as he contended, and his request for management evaluation was thus not filed within 60 days as required by Staff Rule 11.2(c). His arguments on appeal merely repeat his arguments before the UNDT, which were rejected. Mr. Staedtler has failed to identify any error that would warrant reversal of the UNDT's conclusion in this regard.

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<sup>4</sup> Citing *Ngokeng v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-460.

<sup>5</sup> Citing *Ishak v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-152, para. 29; *Warintarawat v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-208, paras. 9-10.

30. The UNDT's reliance on *Hunt-Matthes* as a basis for finding that it had jurisdiction to review determinations by the Ethics Office is legally unsustainable given that the UNDT judgment was subsequently vacated by the Appeals Tribunal.<sup>6</sup> As the UNDT did not have the competence to examine determinations made by the Ethics Office, it lacked the competence to make observations or findings regarding the correctness of determinations made by the Ethics Office.<sup>7</sup> As such, Mr. Staedtler's challenges to the UNDT's findings in relation to the Ethics Office cannot properly be the subject of an appeal. In any event, should this Tribunal wish to examine the correctness of the determinations of the Ethics Office, the text of ST/SGB/2005/21 clearly identifies to whom reports of misconduct need to be directed in order for the reporting staff member to claim protection, and Mr. Staedtler cannot invoke ignorance of the law to justify his non-compliance with ST/SGB/2005/21.

31. Regarding Mr. Staedtler's disclosure request, the UNDT has a broad discretion to determine the admissibility of any evidence under Article 18(1) of its Rules of Procedure and the weight to be attached to such evidence.<sup>8</sup> Mr. Staedtler does not explain how these documents, even if they exist, would have affected the outcome of the case. Moreover, his reiterated request relates nearly exclusively to matters that were not before the UNDT, i.e. the circumstances of his reassignment. As such, Mr. Staedtler has failed to establish any error of procedure by the UNDT warranting reversal of the Judgment.

32. The Secretary-General requests that the Appeals Tribunal affirm the Judgment and dismiss the appeal in its entirety.

### **Considerations**

*Did the UNDT err in procedure in its handling of the Appellant's disclosure request?*

33. As a matter of logic, we will first consider the Appellant's last ground of appeal claiming that the UNDT erred in procedure when it denied the disclosure of allegedly decisive evidence that would have supported his claim that the challenged non-renewal decision was improperly motivated. If successful, such ground would of itself warrant that the matter be remanded to the Dispute Tribunal for a *de novo* trial.

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<sup>6</sup> Citing *Hunt-Matthes v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-444, reversing Judgment on Receivability No. UNDT/2011/063.

<sup>7</sup> Citing *Ngoma-Mabiala v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-361, para. 25.

<sup>8</sup> *Messinger v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-123, para. 33.

34. With respect to the Appellant's disclosure request, the UNDT stated:<sup>9</sup>

... On 25 November 2013, the Applicant sought disclosure of documents by the Respondent. The Respondent replied to this request. On 13 December 2013, the Applicant repeated his request for disclosure and asked the Tribunal to order the Respondent to "provide comprehensive and unequivocal responses to the requests ... and deriving follow-up requests".

[On 4 March 2014, the UNDT ordered the Secretary-General to file his submissions and response to Mr. Staedtler's request of 25 November 2013, pursuant to Order No. 038 (NBI/2014).]

[On 8 March 2014, the Appellant filed a further request for production of information and documents.]

... The documents sought by the Applicant were:

- a) documents to show whether or not the Office for Internal Oversight Services (OIOS) had carried out an investigation addressing the reported misconduct and prohibited activities in the Libya programme and, if so, the reports of that investigation; and
- b) if the Tribunal finds that the administration had reassigned the Applicant to a P4 post at the Amman duty station, he seeks answers to a number of questions concerning the reassignment post and its funding.

... In response to these requests, the Respondent referred to a memorandum dated 25 March 2013 from the Director of the Investigation Division of OIOS to the Executive Director of UN-Habitat stating that the matter would be best handled by UN-Habitat. Secondly, the Respondent reaffirmed its previous submissions and elaborated on the questions raised by the Applicant about his assignment to Amman.

... Having reviewed the memorandum referred to by the Respondent, the Tribunal is satisfied that OIOS did not investigate the Applicant's complaint and there is no OIOS report for the Respondent to disclose. Any documentation or evidence relating to the reassignment to Amman is not relevant to the four decisions being challenged by the Applicant in this case.

.... The Tribunal holds that the Respondent has sufficiently responded to the Applicant's requests for disclosure. The relevant evidence which it was able to and did disclose forms part of the considerations of the Tribunal which follow.

35. We find no error of procedure by the Dispute Tribunal with regard to the disclosure of documents requested by the Appellant. The Dispute Tribunal analysed the document and response submitted by the Secretary-General and concluded that, notwithstanding the

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<sup>9</sup> Impugned Judgment, paras. 5-9.

Appellant's repeated disclosure requests, the Secretary-General's response constituted a satisfactory answer to the Tribunal's Order. Our jurisprudence clearly indicates that the Appeals Tribunal will not interfere lightly with the broad discretion of the UNDT in the management of cases<sup>10</sup> and that the UNDT has a broad discretion to determine the admissibility of, and the weight to be attached to, any evidence as the Judge hearing the case has an appreciation of all of the issues for determination and the evidence before him or her.<sup>11</sup>

36. The Appellant has failed to demonstrate how the UNDT erred in procedure. He has not demonstrated which documents were not produced or how such documents would have led to different findings of fact and changed the outcome of his case. Therefore, the Appellant has not established any procedural errors warranting the reversal of the Judgment.

*Did the UNDT err in finding that his challenge to his 2011-2012 ePAS was not receivable?*

37. While the Appellant relies on the UNDT Judgment in *Ngokeng*, that judgment was overturned on appeal. As we stated on appeal in *Ngokeng*, pursuant to Section 15.1 of ST/AI/2010/5, a staff member who receives a rating of "consistently exceeds" or "successfully meets" performance expectations on his or her performance appraisal is not able to initiate a rebuttal.<sup>12</sup>

38. Thus, a good final rating does not constitute an "administrative decision" able, by itself, to have a direct and negative impact on a staff member's rights and, accordingly, there is no legal basis pursuant to Article 2(1)(a) of its Statute for a staff member to file an application before the Dispute Tribunal.

39. Section 15.7 of ST/AI/2010/5 provides:

The rating resulting from an evaluation that has not been rebutted is final and may not be appealed. However, administrative decisions that stem from any final performance appraisal and that affect the conditions of service of a staff member may be resolved by way of informal or formal justice mechanisms.

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<sup>10</sup> *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-62, para. 23.

<sup>11</sup> *Messinger v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-123, para. 33.

<sup>12</sup> *Ngokeng v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-460, para. 29.

40. In the present matter, there was no evidence of any adverse administrative decision that stemmed from the Appellant's performance appraisal. As in *Ngokeng*, the SRO's comment did not detract from the overall satisfactory performance appraisal, which indeed he confirmed, and had no direct legal consequences for the Appellant's terms of appointment. As such, the SRO's comment reflects no more than a legitimate exercise of administrative hierarchy evaluating employees, and does not of itself constitute an independent administrative decision able to be challenged through appeal.

41. Hence, the Dispute Tribunal correctly concluded that the Appellant's challenge related to the comments of his SRO in his 2011-2012 ePAS was not receivable.

*Did the UNDT err in finding that his challenge to his 2012-2013 ePAS was moot?*

42. We equally find that the UNDT did not err when it considered that the Appellant's challenge to the failure of the Administration to allow him to comment on his mid-point review in relation to his 2012-2013 ePAS cycle was moot, since he was given the opportunity previously omitted and did not take advantage of it.

43. Contrary to the Appellant's arguments, it is immaterial that the "rolling back" of the ePAS procedure did not go back to the stage of the mid-point review but rather only to the stage of the end-of-year evaluation, because the rectification nevertheless provided the staff member with the opportunity of which he had previously been deprived, namely to introduce his comments with respect to his performance in the electronic system.

*Did the UNDT err in finding that the challenge to the non-renewal of his contract was time-barred?*

44. This Tribunal upholds the decision of the Dispute Tribunal, namely that the Appellant failed to challenge the decision not to renew his fixed-term contract beyond 31 December 2012 in a timely manner.

45. The UNDT correctly stated that the Appellant was aware of the decision he now contests as of 31 August 2012. As a result of that finding, time began to run for the Appellant to request management evaluation, in accordance with the procedures prescribed by the Staff Regulations and Rules. Contrary to the Appellant's contention, time cannot be said to have started to run for the purpose of requesting management evaluation as of 26 November 2012 when he

was again notified in the context of separation formalities that his contract would expire on 31 December 2012.

46. The Appeals Tribunal has consistently held that the reiteration of an original administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to statutory timelines; rather time starts to run from the date on which the original decision was made.<sup>13</sup> Further, we can see no action on the part of the Administration that departed from the principle of good faith or that could be said to have created false expectations on the part of the Appellant that the Administration was considering otherwise.

47. The Appellant admits that he sought informal resolution through the Ombudsman's Office, but in contradiction, claims ignorance of the fact that he should already have sought management evaluation. We have consistently held that staff members have to ensure that they are aware of Staff Regulations and Rules and the applicable procedures in the context of the administration of justice in the United Nations' internal justice system and that ignorance of the law is no excuse for missing deadlines.<sup>14</sup>

48. Although the Appellant was notified, and was thus aware, as of 31 August 2012 that his fixed-term contract would expire on 31 December 2012, he did not challenge this before the respective deadline lapsed. Consequently, his appeal to the UNDT was correctly considered non receivable.

*Did the UNDT err in rejecting the Appellant's challenge to the findings of the Ethics Office that the content of his reports did not constitute a "protected activity"?*

49. The ground of appeal challenging the rejection by the Ethics Office of the Appellant's request for protection against retaliation also fails. Firstly, the Appellant did not establish that

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<sup>13</sup> *Samuel Thambiah v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-385; *Cooke v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-275; *Sethia v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-079, citing former Administrative Tribunal Judgment No. 1211, *Muigai* (2004) and Judgment No. 1311, *Burbridge et al.* (2006).

<sup>14</sup> *Amany v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-521, citing *Kissila v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-470, *Christensen v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-218 and *Jennings v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-184; *Nianda-Lusakueno v. Secretary General of the International Civil Aviation Organization*, Judgment No. 2014-UNAT-472; *Azzouz v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2014-UNAT-432; *Diagne v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-067.

the protection system envisaged in ST/SGB/2005/21 was applicable to his situation or that he followed the correct steps in bringing his complaint. On the contrary, as determined by the Ethics Office, the Appellant did not address his complaint to the right authority and failed to demonstrate a *prima facie* case of retaliation.

50. The appeal on this issue has no merit.

*Referral for accountability*

51. Finally, the Appellant requested referral of certain persons named in his appeal to the executive head of UN-Habitat for accountability on the basis of the complaints canvassed in his appeal. In view of our foregoing findings rejecting each of the Appellant's grounds of appeal, such request necessarily also fails.

**Judgment**

52. The appeal is dismissed in its entirety and the UNDT Judgment is affirmed.

Original and Authoritative Version: English

Dated this 2<sup>nd</sup> day of July 2015 in Geneva, Switzerland.

*(Signed)*

Judge Simón, Presiding

*(Signed)*

Judge Lussick

*(Signed)*

Judge Adinyira

Entered in the Register on this 20<sup>th</sup> day of August 2015 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar