

UNDT/2011/204, Onana

UNAT Held or UNDT Pronouncements

OSLA is an integral part of the Secretariat of the United Nations and that its decisions are taken under the umbrella of the Secretary-General. OSLA's decisions may be challenged to the extent that they are strictly administrative decisions and are not related to the giving of advice to litigants or the conduct of cases before the UNDT. It must be noted however that the scope and jurisdiction of the Tribunal is not limited to the author of the decision but most importantly to its nature. In order to establish that the administrative decision impacts on the contract of employment or terms of employment, there must exist a direct causal link between the decision and the resulting effect on his appointment. The non-communication of the Judgment to the Applicant must be the direct cause in the chain of the events that led to the loss, without any intervening factor that would break that chain. The Applicant's awareness of the Judgment constitutes that intervening factor that breaks the causal nexus between the non-communication of the Judgment and the impact on his employment. Once he became aware of the Judgment it was for him to take steps to file his appeal in a timely manner. It is the fundamental right of a person to have access to a court of law and to pursue all remedies legitimately open to him or to her. This, a party can only do, if he or she is made aware of decisions taken in his or her case. The general rule in matters of privilege, affecting the client/lawyer relationship is that any information or communication that passes between them by way of an advice or with a view to litigation would be privileged. In the present case, to reveal as a fact whether the applicant did make a request to get a copy of the Judgment could not be said to be protected by the client/lawyer privilege.

Decision Contested or Judgment/Order Appealed

The Applicant joined the International Criminal Tribunal for Rwanda (ICTR) in April 1999 as a French Court Reporter. He worked in that capacity until May 2007 when the Chief of Section recommended that his contract should not be renewed. After some discussions within the section, the Applicant was moved to the Judicial Records

and Archives Unit (JRAU) in August 2007. From a budgetary and administrative standpoint, the Applicant however continued to encumber his post with the French Court Reporters Unit even though he performed functions in JRAU. The Applicant contests the decision not to communicate to him Judgment No. UNDT/2010/136 by OSLA ("the impugned decision").

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Onana

Entity

ICTR

Case Number(s)

UNDT/NBI/2011/035

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Nov 2011

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2010/3

Security Council Resolutions

- S/RES/1503
- S/RES/1534
- S/RES/955

Staff Rules

- Rule 11.2(a)

UNDT RoP

UNDT Statute

- Article 11.5
- Article 2.1

Related Judgments and Orders

2011-UNAT-157

UNDT/2010/136

UNDT/2011/028

UNDT/2011/024

UNDT/2011/006

UNDT/2011/005

UNDT/2009/090

UNDT/2010/018

UNDT/2010/010