

UNDT/2014/039, Sprauten

UNAT Held or UNDT Pronouncements

The Respondent submitted that the application was not receivable as the decision of 31 August 2011 was a reiteration of the decision given to the Applicant on 30 March 2009, before Sprauten UNDT/2011/094. The UNDT found that the decision of 31 August 2011 was made, or should have been made, pursuant to the directions and order of the Tribunal in Sprauten UNDT/2011/094 (see paras. 87–88), and it thus cannot be viewed as a mere reiteration of the decision dated 30 March 2009. The purpose of the Tribunal’s order in para. 87 of Sprauten UNDT/2011/094 was to direct the Administration to make a new administrative decision regarding the Applicant’s entitlement to a standard enhanced separation package, taking into account relevant factors and considerations. Thus, the decision of 31 August 2011 constituted a separate administrative decision. The UNDT further noted that para. 88 of Sprauten UNDT/2011/094 specifically stated that the order in para. 87 of that Judgment was “without prejudice to the Applicant in later filing an appeal of the determination of the Respondent on termination indemnity, if necessary”. The UNDT found that that order was not vacated by the Appeals Tribunal, and it was clearly the basis upon which the Applicant was pursuing this case. Administrative decision made pursuant to Tribunal’s order: The purpose of the Tribunal’s order in para. 87 of Sprauten UNDT/2011/094 was to direct the Administration to make a new administrative decision regarding the Applicant’s entitlement to a standard enhanced separation package, taking into account relevant factors and considerations. Thus, the decision of 31 August 2011 constituted a separate administrative decision that the Applicant now contests.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the United Nations Office for Project Services (“UNOPS”), filed an application contesting the decision not to pay him a termination indemnity after his separation from UNOPS. This decision was communicated to the Applicant on 31 August 2011 by the UNOPS General Counsel in

compliance with Sprauten UNDT/2011/094, which ordered, inter alia, that UNOPS determine by 1 September 2011 “whether [the Applicant] was wrongly deprived of a standard enhanced separation package of 18 months’ net base salary”.

Legal Principle(s)

Receivability as a preliminary issue: The Tribunal may consider the receivability of an application as a preliminary issue. Should the Tribunal find an application not receivable, it will dismiss this application and not proceed with the consideration of the merits of the case before it.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Sprauten

Entity

UNOPS

Case Number(s)

UNDT/NY/2012/005

Tribunal

UNDT

Registry

New York

Date of Judgement

4 Nov 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Jurisdiction / receivability (UNDT or first instance)

Ombudsman / informal resolution

Referral to ombudsman / mediation

Applicable Law

UNDT RoP

- Article 19

Related Judgments and Orders

UNDT/2010/087

UNDT/2011/094

2010-UNAT-073

2010-UNAT-075

2011-UNAT-111

2012-UNAT-219