

# **UNDT/2016/103, Fayek**

## UNAT Held or UNDT Pronouncements

UNDT deemed it appropriate to decide on the application, without first transmitting a copy of the application to the Respondent for a reply. The Applicant should have requested management evaluation of the contested decision, but failed to do so. UNDT rejected the application as not receivable.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to close the case after investigation of her complaint against her supervisor for prohibited conduct under ST/SGB/2008/5 and not to grant her compensation for the damages that she allegedly suffered.

## Legal Principle(s)

The issue of receivability is a matter of law which may be adjudicated even without serving the application to the Respondent for reply and even if it was not raised by the parties. The jurisdiction of UNDT can only be exercised if the contested administrative decision has previously been submitted for management evaluation, where required. Management evaluation is a mandatory administrative review to be undertaken prior to the submission of an application to UNDT and it is not open to UNDT to waive this requirement or make any exception to it.

## Outcome

Dismissed as not receivable

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Fayek

## Entity

UN Secretariat

## Case Number(s)

UNDT/NBI/2016/50

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

28 Jul 2016

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)  
Management Evaluation

## Applicable Law

## Secretary-General's bulletins

- SGB/2008/5

## Staff Rules

- Rule 11.2
- Rule 11.2(b)

## UNDT RoP

- Article 8.4

## UNDT Statute

- Article 8.1(c)

## Related Judgments and Orders

UNDT/2013/147

2010-UNAT-072

2010-UNAT-074