

UNDT/2019/138, Massi

UNAT Held or UNDT Pronouncements

The Tribunal noted that the Applicant did not identify any operative part of Judgment Massi UNDT/2016/100 that would not have been executed. Furthermore, Judgment Massi UNDT/2016/100 dealt with the calculation and timing of compensation for loss of earning capacity due to the Applicant from 14 May 2005 until 31 December 2015. No order was made in respect of any payment or entitlement to compensation after 31 December 2015. The Tribunal found that the present application raised a different matter than that addressed in Judgment Massi UNDT/2016/100 and was not related to any of the remedies awarded therein. It, therefore, found the application not receivable as a request for execution of judgment under art. 12.4 of the Tribunal's Statute. The Tribunal also found the application not receivable as a standalone challenge against the letter of 29 April 2019 since the Applicant did not request management evaluation, as required by art. 8.1(c) of the Tribunal's Statute and art. 5.2 of Appendix D. In any event, the Tribunal finds that the letter of 20 April 2019 by the Administrator, Compensation Claims, UNOG, is merely a reiteration of the 29 October 2015 decision and intended to inform the Applicant that his payments would cease. It does not constitute a new administrative decision.

Decision Contested or Judgment/Order Appealed

The Applicant challenges the letter of 29 April 2019 of the Administrator, Compensation Claims Service, UNOG, advising him that the payment of his compensation for loss of earning capacity under art. 11.2(d) of Appendix D to the Staff Rules would cease on 31 May 2019.

Legal Principle(s)

Pursuant to art. 12.4 of the Dispute Tribunal's Statute, "[o]nce a Judgment is executable under article 11, paragraph 3, of the present statute, either party may

apply to the Dispute Tribunal for an order for execution of the Judgment if the Judgment requires execution within a certain period of time and such execution has not been carried out". Management evaluation is a mandatory requirement for seizing the Dispute Tribunal [in a certain type of cases] and the latter has no power to entertain an application that does not meet this requirement. (see, e.g., Rosana 2012-UNAT-273 Dzuverovic 2013-UNAT338 Kouadio 2015-UNAT-558). Failure to fulfill this mandatory requirement renders the application irreceivable *ratione materiae* (Egglesfield 2014-UNAT-402).

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Massi

Entity

UNOG

Case Number(s)

UNDT/GVA/2019/047

Tribunal

UNDT

Registry

Geneva

Date of Judgement

9 Sep 2019

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Compensation

Jurisdiction / receivability (UNDT or first instance)

United Nations Joint Staff Pension Fund (UNJSPF)

Applicable Law

Laws of other entities (rules, regulations etc.)

Staff Rules

- Appendix D
- Rule 11.2(d)

UNDT Statute

- Article 12.4
- Article 8.1(c)

UNJSPF Regulations

- Article 33

Related Judgments and Orders

UNDT/2016/100

2012-UNAT-273

2013-UNAT-338

2015-UNAT-558

2014-UNAT-402