

UNDT/2021/118, Jacques Armand

UNAT Held or UNDT Pronouncements

There was no express indication that the Judgment of the 11th Judicial Circuit Court was executable upon issuance, neither was the issue investigated by the administration in the proceedings leading to the impugned decision. Rather, pertinent documents focus on the finality, apparently presumed from the title ‘Final judgment of dissolution of marriage’. The title should not have been relied upon. The contested decision was not based on a court order whose enforceability was unequivocal. The Tribunal did not find any indication of the judgment by the Third District Court of Appeal of the State of Florida being limited to the divorce decision only. The orders on child support included in the reversed Judgment had been issued in the regime of divorce proceedings, where the 11th Judicial Circuit Court had assumed to have jurisdiction.

Decision Contested or Judgment/Order Appealed

The Applicant contested a decision by the Under-Secretary-General for Management Strategy, Policy and Compliance (“USG/DMSPC”) to authorize a deduction of a monthly sum of USD5,032.33 from his salary for child support.

Legal Principle(s)

The Respondent’s first duty as an employer is to pay staff members their salary and entitlements in return for the work rendered. It is not a primary role of the Respondent to execute family support orders, as is expressed by the controlling legal act, ST/SGB/1999/4, whose section 2 establishes authorizing deductions as discretionary. This reflects the fact that making relevant determinations on the interface of municipal private law, in which the Organization has no expertise, may prove overly cumbersome and time-consuming, and still be erroneous in the end. It follows that a decision to authorize deductions must be based on a court order whose enforceability is unequivocal. A failure to effectively obtain the relevant information about a court order should not be held against the staff member. Where a disputed court order lacks clarity, and absent cooperation from the state agency as to clarifying the needful, the Organization should err on the side of refraining from deductions. The Organization should not be expected to ensure for claimants of child support more protection than it is granted to them by the original jurisdiction.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The application was granted and the contested decision was rescinded.

Full judgment

[Full judgment](#)

Applicants/Appellants

Jacques Armand

Entity

UNSOS

Case Number(s)

UNDT/NBI/2021/2

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

12 Oct 2021

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Private legal obligations

Salary deduction

Spousal/child support

Applicable Law

Administrative Instructions

- ST/AI/2009/1

Secretary-General's bulletins

- ST/SGB/1994/4

Staff Rules

- Rule 3.18