

UNDT/2021/123, Pierre

UNAT Held or UNDT Pronouncements

The Tribunals' jurisprudence underscores that the key characteristic of an administrative decision is that it must produce adverse consequences for a staff member's employment contract or terms of appointment. Decisions that extend a contract, even on a short-term basis, are in the staff member's favour and do not adversely affect their rights. It is only after a report has been made and processed pursuant to ST/SGB/2019/8 (Addressing discrimination, harassment, including sexual harassment, and abuse of authority) that its handling may be the subject matter of a case before the Tribunal. It was underscored in Messinger that the Tribunal can examine harassment allegations if they are relevant background information in determining whether an impugned administrative decision was motivated by ill-will. The important precursor to any such exercise of jurisdiction by the Tribunal remains the existence of an 'administrative decision'. As there is, by definition, no administrative decision in this case, the Tribunal has neither relevant basis nor jurisdiction to examine the prior complaints of harassment.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision made on 8 July 2021 to grant him a six-month extension of his fixed-term contract until 31 December 2021.

Legal Principle(s)

The Tribunal may in appropriate cases determine the issue of receivability on a priority basis, without awaiting the Respondent's reply. The matter complained of does not include an administrative decision for purposes of staff rule 11.2(a).

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Pierre

Entity

MINUSMA

Case Number(s)

UNDT/NBI/2021/075

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

25 Oct 2021

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

Former Staff Rules

- Rule 11.2