

# 2010-UNAT-005, Tadonki

## UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeals against UNDT decisions ordering the suspension of the contested decisions beyond the deadline for management evaluation. UNAT clarified that, generally, only appeals against final judgments would be receivable, because otherwise, cases would seldom proceed if either party was dissatisfied with a procedural ruling. Article 2.2 of the UNDT Statute authorizes UNDT to order suspension of a contested decision only "during the pendency of the management evaluation". UNAT found that UNDT exceeded its jurisdiction in ordering suspension of the contested decision not to renew the staff member's contract beyond the deadline for management evaluation. UNDT also exceeded its jurisdiction under Article 10.2 of the UNDT Statute by ordering suspension of the contested decision not to renew the staff member's contract pending the final determination of the case. UNAT emphasized that almost no preliminary matters would be receivable, for instance, matters of evidence, procedure, and trial conduct. UNAT held that only when it is clear that UNDT has exceeded its jurisdiction will a preliminary matter be receivable.

## Decision Contested or Judgment/Order Appealed

The staff member filed an application for suspension of action of the decision not to renew his contract. UNDT ordered that the contested decision be suspended pending the final determination of the substantive appeal and that the staff member's salary be paid from the date of the order until the final determination of the case.

## Legal Principle(s)

Generally, only appeals against final judgments are receivable. However, when it is clear that UNDT has exceeded its jurisdiction, a preliminary matter may be receivable. Under Article 2. 2 of the UNDT Statute, UNDT has the competence to

order the suspension of that decision only during the pendency of the management evaluation.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Tadonki

## Entity

OCHA

## Case Number(s)

2009-006

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

30 Mar 2010

## President Judge

Judge Painter

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNAT)

Interlocutory appeal

Performance management

Performance evaluation

Suspension of action / interim measures

## Applicable Law

UNAT Statute

- Article 2.2

UNDT Statute

- Article 10.2
- Article 2.2

## Related Judgments and Orders

UNDT/2009/016