

2010-UNAT-060, Wasserstorm

UNAT Held or UNDT Pronouncements

UNAT, applying Bertucci (2010-UNAT-062), rejected as not receivable an interlocutory appeal against UNDT's decision that the determination by the Ethics Office, that no retaliation occurred, constituted an administrative decision falling within UNDT's jurisdiction. The alleged lack of jurisdiction of UNDT was not clearly established in this case: the question of whether there was an administrative decision required adjudication on the merits of the case and could not be the subject of an interlocutory appeal. UNAT further held that the appeal against UNDT's order for production of the OIOS report was not receivable because it was interrelated with the alleged lack of jurisdiction. As previously held in Tadonki No. 1 (2010-UNAT-005, para. 11), interlocutory appeals on matters of evidence, procedure, and trial conduct are not receivable. UNAT accordingly dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant contested the rejection of his request for an administrative review of the outcome of the investigation into his request for protection from alleged retaliation. UNDT found that the decision of the Director of the Ethics Office that no retaliation occurred constituted an administrative decision and that the application was receivable. UNDT also ordered disclosure of the Office of Internal Oversight Services (OIOS) report into a contract the Applicant entered into with a new employer, after notification that his contract with UNMIK would not be renewed due to a reduction in posts.

Legal Principle(s)

An interlocutory appeal is receivable where UNDT clearly exceeded its jurisdiction or competence. The general rule that only appeals against final judgments are receivable does not apply when UNDT dismisses a case on the grounds that it is not

receivable under Article 8 of the UNDT statute, as the case cannot proceed any further and there is a final judgment in effect.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Wasserstorm

Entity

UNMIK

Case Number(s)

2010-066

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Interlocutory appeal

Applicable Law

UNAT Statute

- Article 2.1
- Article 7

Related Judgments and Orders

2010-UNAT-062

2010-UNAT-005