

2011-UNAT-116, Iskandar

UNAT Held or UNDT Pronouncements

UNAT held that, as a consequence of paragraph 11 of the Inter-Organisation Agreement, the UN, through UNAMID, undertook to extend the protection of its system of administration of justice to the Appellant in respect of administrative decisions taken by UNAMID during the term of the Loan Agreement. UNAT noted that under this provision, the Appellant could only appeal against the administrative decisions of WFP before ILOAT. UNAT held that, without access to the administration of justice system within the UN, the Appellant would have no right to an effective remedy from the competent tribunal in respect of administrative decisions taken by UNAMID and that this would be a denial of justice. UNAT held that UNDT erred on a question of law in finding that the Appellant did not have standing to contest the administrative decision of UNAMID before UNDT. UNAT allowed the appeal, vacated the UNDT judgment and remanded the case to UNDT for a hearing on the merits.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions not to treat him as a staff member while he was on loan from WFP to UNAMID and not to appoint him to a post for which he had applied. UNDT found that, under the Inter-Organisation Agreement, the Applicant had no contractual relationship with UNAMID and therefore he could only contest the decision before the Administrative Tribunal of the International Labour Organisation (ILOAT), the appropriate appeals body established by WFP, as UNDT had no jurisdiction. UNDT found that the Applicant, a staff member of WFP who services with UNAMID under a reimbursable loan agreement, did not have legal standing *ratione personae* to challenge the non-appointment decision. UNDT dismissed the application.

Legal Principle(s)

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Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Iskandar

Entity

UNAMID

Case Number(s)

2010-111

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Mar 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Personal (ratione personae)

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

Agreements, conventions, treaties (etc.)

- Inter-Organization Agreement Concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances

UNDT Statute

- Article 2
- Article 2.1
- Article 3.1

Related Judgments and Orders

UNDT/2010/100

2011-UNAT-120