

2011-UNAT-120, Gabaldon

UNAT Held or UNDT Pronouncements

UNAT recalled that an employment contract of a staff member subject to the internal laws of the Organisation is not the same as a contract between private parties and that the issuance of a letter of appointment by the Administration cannot be regarded as a mere formality. The issue before UNAT was whether the staff member, who had received an offer of employment, but not a letter of appointment, from the Organisation, should be regarded as a staff member and thus should have access to the internal justice system to contest the legality of the Administration's withdrawal of the offer of employment. UNAT held that an offer of employment, though it does not constitute a valid employment contract, may produce legal effects if all the conditions set forth in the offer of employment were unconditionally accepted and fulfilled by the offeree in good faith. In such a situation the offeree should be regarded as a staff member for the limited purpose of seeking recourse within the internal justice system. UNAT overturned UNDT's judgment and remanded the case to UNDT for examination of facts of the case in light of its holding.

Decision Contested or Judgment/Order Appealed

The staff member contested the decision to withdraw his offer of employment on the basis that he had not been declared physically fit. UNDT rejected his application on the ground that it lacked jurisdiction *ratione personae*. UNDT found that a person could not obtain the status of a staff member of the United Nations before receiving a letter of appointment signed by a duly authorized official of the Organisation.

Legal Principle(s)

A person who has not yet been issued a letter of appointment should be regarded as a staff member for the limited purpose of seeking recourse within the internal justice system provided that he/she has accepted unconditionally the terms and conditions of an offer of employment.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Gabaldon

Entity

UNMIS

Case Number(s)

2010-115

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Mar 2011

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Former Staff Rules

- Rule 304.1

Staff Regulations

- Regulation 4.1

UN Charter

- Article 101.1

UNDT Statute

- Article 2.1
- Article 3.1

Related Judgments and Orders

UNDT/2010/098

2010-UNAT-029

2010-UNAT-009