

2012-UNAT-223, Rawat

UNAT Held or UNDT Pronouncements

UNAT considered the appeal, in which the Secretary-General requested that UNAT consider the appeal receivable and find that UNDT exceeded its competence in ordering a suspension of action on the decision not to extend Mr Rawat's appointment. UNAT noted that, in imminently executing the administrative order, UNDT failed to comply with the five-working-day limit, set forth in Villamoran (2011-UNAT-160), without giving any reasons for doing so and thus, clearly exceeded its competence. UNAT consequently held that the appeal against the contested order was receivable and founded. UNAT rescinded UNDT's order.

Decision Contested or Judgment/Order Appealed

Mr Rawat requested a suspension of action regarding the decision not to extend his contract beyond 30 June 2011. UNDT ordered a suspension of the contested decision until 8 July 2011. On 8 July 2011 UNDT dismissed Mr. Rawat's application seeking a suspension of action of the decision not to extend his contract.

Legal Principle(s)

Where execution of an administrative decision is imminent, through no fault or delay on the part of the applicant and takes place before the expiry of the five-day period provided for in Article 13 of the UNDT RoP, and if UNDT is not in a position to make a decision under Article 2(2) of its Statute, it must have the discretion to grant a suspension for those five days. To find otherwise would render Article 2(2) of the UNDT Statute and Article 13 of the UNAT RoP meaningless in cases where implementation of the administrative decision is imminent.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Rawat

Entity

ICTR

Case Number(s)

2011-236

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Jun 2012

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Receivability

Suspension of action

Jurisdiction / receivability (UNAT)

Appeal

Interlocutory appeal

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNAT RoP

- Article 13

UNDT Statute

- Article 2.2

Related Judgments and Orders

2010-UNAT-005

2010-UNAT-008

2011-UNAT-159

2010-UNAT-062

2011-UNAT-160