

2012-UNAT-268, Bangoura

UNAT Held or UNDT Pronouncements

UNAT considered appeals by both Mr Bangoura and the Secretary-General. Mr Bangoura requested oral hearings was rejected. UNAT held that the case would be decided on law and that the pertinent documents were on record. Regarding the Secretary-General's appeal, UNAT noted that the staff member had requested the execution of a part of judgment No. 1029 of the former UN Administrative Tribunal and that Tribunal had established a procedure for staff members wishing to challenge the non-execution of a judgment. UNAT held that the staff member needed to make a request for review of the administrative decision and, if denied, appeal to the former Joint Appeals Board (JAB), and thereafter to the former UN Administrative Tribunal. UNAT held that the staff had failed to request the review in a timely manner and that, therefore, UNDT had no jurisdiction, and the application was not receivable. UNAT held that UNDT did not have the competence to waive time limits and that UNDT had, therefore, erred. Regarding the staff member's appeal, UNAT held that neither UNAT nor UNDT had the power to review decisions of the former UN Administrative Tribunal and that the appeal on this ground had to fail. UNAT dismissed Mr Bangoura's appeal, upheld the Secretary-General's appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions to suspend him on full pay pending expiry of his contract and not to renew his contract, seeking compensation for the defamation in the form of remarks made in a press briefing. The former UN Administrative Tribunal rendered a judgment ordering the Administration to compensate the Applicant for the injuries suffered and found that the Organisation's decision not to continue the Applicant's employment was tainted by abuse of power on the part of the Administration. The Applicant, unsatisfied with the outcome of his case, raised the matter with the Administration between April 2002 and October 2008 and eventually filed an application with UNDT. UNDT found that the issues raised by the

Applicant before UNDT stemmed from the same course of action and were thus res judicata and, therefore, closed. UNDT found that the judgment of the former UN Administrative Tribunal had not been fully implemented. Regarding the receivability *ratione materiae*, UNDT concluded the former UN Administrative Tribunal and UNDT had the same power to order the execution of their own judgments. Regarding the receivability *ratione temporis*, UNDT found that notwithstanding the long time that had passed since the judgment, the Applicant could not be left without remedy since he in fact had repeatedly raised the matter with the Administration. UNDT found that its Rules of Procedure provided a sufficient legal basis for UNDT to order the execution of a judgment rendered by the former Administrative Tribunal. UNDT also awarded compensation in the amount of USD 10,000 on the ground that the Administration's failure to fully execute the judgment of the former UN Administrative Tribunal had deprived the Applicant of complete redress for the wrong done to him over a period of nearly ten years.

Legal Principle(s)

UNDT cannot waive the time limit to file an appeal more than three years after the applicant's receipt of the contested administrative decision. Neither UNDT nor UNAT have the power to review decisions of the former Administrative Tribunal.

Outcome

Appeal dismissed on receivability; Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Bangoura

Entity

UNDCP

Case Number(s)

2012-294

2012-313

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Nov 2012

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

Jurisdiction / receivability (UNDT or first instance)

Manifest excess of jurisdiction

Applicable Law

Staff Rules

- Rule 111.2.2

UNDT Statute

- Article 2.7
- Article 8.4

Related Judgments and Orders

UNDT/2011/202