

2013-UNAT-313, Gehr

UNAT Held or UNDT Pronouncements

UNAT held that UNDT correctly determined that no appealable administrative decision was identified by the Appellant. UNAT held that UNDT correctly assessed the actions and/or omissions against the definition of an administrative decision. UNAT held that UNDT was correct in law when it stated that the Administration's proposed alternative did not qualify as a final decision, nor could it be considered as a decision not to proceed with the rebuttal process. UNAT held that there was nothing in the Appellant's written or oral submissions to persuade UNAT that UNDT made any error of law or fact in rejecting the application as premature. UNAT held that there was no legitimacy in the Appellant raising the merits of the case with UNAT as this had been adjudicated in an earlier judgment. UNAT dismissed the appeal against the UNDT's decision to reject the Appellant's application as premature. UNAT rejected the Appellant's submission that UNDT had no legal basis to proceed by way of summary judgment. UNAT held that UNDT correctly determined that the criterion for a summary judgment was met upon determination that the facts were clear and the only issue remaining, whether the contested decision was capable of being appealed, was a matter of law. UNAT dismissed the Appellant's proposition that the UNDT decision to proceed by way of summary judgment offended the principle of audi alteram partem on the basis that his application was given due consideration by UNDT. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the options available to him in order to establish a rebuttal panel to rebut for his performance appraisal. UNDT rejected his application in a summary judgment as not receivable for failure to identify an appealable decision.

Legal Principle(s)

UNDT is competent to hear and pass judgment on an application appealing an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Gehr

Entity

UNODC

Case Number(s)

2012-349

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Mar 2013

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Performance management

Rebuttal

Applicable Law

Administrative Instructions

- ST/AI/2010/5

UNDT RoP

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2012/103