

2013-UNAT-361, Ngoma-Mabiala

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General limited to the discrete issue of the “Observations” of UNDT. UNAT held that the Secretary-General, despite being the beneficiary of a UNDT judgment in his favour, was entitled to appeal the observations. UNAT held that UNDT overstepped the mark to a significant degree in effectively recording, as part of its judgment, “Observations” in the manner in which it did. UNAT held that, in light of the UNDT’s determination on the issue of receivability, UNDT had no jurisdiction to make “Observations” as it did. UNAT allowed the appeal and ordered that the title “Observations” and paragraphs 25 to 36 be redacted from the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Ngoma-Mabiala contested the mode of recovery of an overpayment without formal notification or an amended contract after his post was mistakenly reclassified by the Organisation. UNDT dismissed the application as not receivable for failure to request management evaluation, but, under “Observations”, UNDT concluded that the Administration had made certain mistakes that deprived Mr Ngoma-Mabiala of his rights.

Legal Principle(s)

UNDT may err in law and go beyond its jurisdiction if it effectively embarks on a consideration of the merits of a case after it has limited the matter to adjudication of the receivability issues only.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Ngoma-Mabiala

Entity

MONUC

Case Number(s)

2012-405

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2013

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Manifest excess of jurisdiction

Applicable Law
UNDT Statute

- Article 19

Related Judgments and Orders
UNDT/2012/134
2012-UNAT-235
2010-UNAT-077
2010-UNAT-048