

2014-UNAT-410, Igbinedion

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT did not act lawfully in issuing an order in direct contravention of the established UNAT jurisprudence. However, UNAT also held that parties before UNDT must obey its binding decisions and that a decision by UNDT remained legally valid until such time as UNAT vacated it. UNAT held that the Secretary-General's refusal to comply with UNDT's order was vexatious. UNAT reiterated its jurisprudence that the absence of compliance may merit contempt proceedings. UNAT upheld the appeal in part.

Accountability Referral: The UNAT vacated the UNDT referrals for possible action to enforce accountability.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to extend his appointment. UNDT issued Order No. 30, granting his request for suspension of action of the contested decision pending management evaluation. UNDT issued Order No. 33, granting suspension of action until the case was reviewed on the merits. In Order No. 110, UNDT reiterated the suspension of the non-extension decision pending the determination of the merits. UNAT vacated Orders No. 30 and No. 33. In respect of Order No. 30, UNAT concluded that UNDT had exceeded its jurisdiction and committed an error of law, as it had extended the suspension of action beyond the date of completion of management evaluation. Regarding Order No. 33, UNAT concluded that UNDT had exceeded its jurisdiction by extending the suspension of action until the final determination of the case on its merits, in contravention of Article 10.2 of the UNDT Statute, which excludes such a possibility in cases of appointment, promotion or termination. UN-Habitat did not extend the staff member's appointment, in contravention of that order, and in judgment No. UNDT/2013/024, UNDT held that there was an obligation to execute UNDT Order No. 33, which had not been met. UNDT found, *inter alia*, that three UN-Habitat officials and OLA were in contempt of

its authority and made referrals for accountability.

Legal Principle(s)

The absence of compliance may merit contempt proceedings. UNAT sets precedents, to be followed in like cases by the Dispute Tribunal (principle of stare decisis). An interlocutory order by UNDT remains legally valid until such time as it has been vacated by UNAT. Parties before UNDT must obey its binding decisions.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Igbinedion

Entity

UN-Habitat

Case Number(s)

2013-460

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Apr 2014

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Suspension of action

Jurisdiction / receivability (UNAT)

Interlocutory appeal

Suspension of action / interim measures

Referral for accountability

Applicable Law

UNAT Statute

- Article 10.2
- Article 9.5

UNDT Statute

- Article 10.2
- Article 2.2

UNRWA DT Statute

- Article 10.8

Related Judgments and Orders

UNDT/2013/024

2012-UNAT-255

2010-UNAT-005

2010-UNAT-011

2010-UNAT-008

2011-UNAT-160

2012-UNAT-256