

2014-UNAT-444, Hunt-Matthes

UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal regarding the judgment on Receivability (UNDT/2011/063) and the judgment on the Merits (UNDT/2010/085). As a preliminary matter, UNAT denied Ms Hunt-Matthews' request for an oral hearing. UNAT noted that the Secretary-General may properly appeal the judgment on Receivability as part of the judgment on the Merits and that it was timely. UNAT considered whether UNDT should have received Ms Hunt-Matthes' application and found that it was not receivable *ratione materiae*. UNAT found that UNDT erred when it determined that Ms Hunt-Matthes' claims of retaliation were covered by ST/SGB/2005/21 since her claims were based on events occurring in 2004, which was before ST/SGB/2005/21 went into effect. UNAT held that, since Ms Hunt-Matthes' application should not have been received *ratione materiae*, UNDT was not competent to address the merits. However, UNAT noted that Ms Hunt-Matthes may still have had remedies for her complaint of retaliation or reprisal, pursuant to Section 5. 2. 8 of IMO/FMO/65/2003. UNAT granted the appeal, reversed UNDT's judgment on Receivability and vacated UNDT's judgment on the Merits.

Decision Contested or Judgment/Order Appealed

Ms Hunt-Matthes challenged the Ethics Office's determination that there was no connection between her reporting of misconduct and the decision not to renew her contract. UNDT held that: Ms Hunt-Matthes had a right to be protected from retaliation; the Ethics Office applied the wrong criteria in considering whether she had engaged in protected activities; the Ethics Office failed to identify that the retaliatory acts alleged were the assessment of her performance as unsatisfactory and subsequent non-renewal of her appointment; and the Ethics Office failed to make a proper enquiry into the link between the protected activity and the alleged retaliation. UNDT awarded Ms Hunt-Matthes moral damages for her stress and anxiety caused by the Ethics Office's breach of its duty to her.

Legal Principle(s)

The general rule that only appeals against final judgments are receivable does not apply where UNDT dismisses a case on the grounds that it is not receivable under Article 8 of the UNDT statute, as the case cannot proceed any further and there is in effect a final judgment. Laws may not be applied retroactively to incidents that occurred prior to their issuance.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Hunt-Matthes

Entity

UNHCR

Case Number(s)

2013-511

2013-512

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Jun 2014

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Ethics office

Retaliation

Judgment-related matters

Appeals of final judgments

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Laws of other entities (rules, regulations etc.)

- IMO/FMO/65/2003/Section 5.2.8

Secretary-General's bulletins

- ST/SGB/2005/21

Related Judgments and Orders

UNDT/2011/063

UNDT/2013/085