

2014-UNAT-461, Al-Badri

UNAT Held or UNDT Pronouncements

The Secretary-General appealed UNDT's decision to admit to judicial review Ms Al-Badri's challenge against the decision to abolish her post in Amman and to create a new post at the same level in Baghdad. UNAT only considered the receivability of this appeal. UNAT held that alleged excess of jurisdiction or competence on the part of UNDT, so as to admit an appeal of an interlocutory order or judgment, must be clear or manifest. UNAT recalled its jurisprudence that the general principle underlying the right of appeal set out in Article 2(1) of the UNAT Statute is that only final judgments of UNDT are appealable and that only when it is clear that the UNDT has exceeded its jurisdiction will a preliminary matter be receivable. UNAT held that the alleged lack of jurisdiction or competence on the part of the UNDT, given the particular circumstances of the case, was not clearly established. UNAT held that the Secretary-General's specific argument should be considered once a final judgment had been rendered if the Secretary-General chose to appeal further. UNAT dismissed the appeal on the basis that it was not receivable.

Decision Contested or Judgment/Order Appealed

Ms Al-Badri contested the sudden verbal decision to relocate her post from Amman to Baghdad without any notice, the subsequent abolition of her post in Amman, and the rejection of her request to postpone her entry on duty (EOD) date for a post in Baghdad to the end of March 2011. UNDT found that UNDP was estopped from asserting that Ms Al-Badri's challenge of the decision to abolish her post in Amman and to create a new post in Baghdad was time-barred. UNDT also found that Ms Al-Badri's claim against UNDP for refusing to postpone her EOD in Baghdad to the end of March 2011 was not receivable, as she did not raise the issue in her March 2011 request for management evaluation, nor did she make any submissions in this regard in her filing with UNDT dated June 2013.

Legal Principle(s)

The general principle underlying the right of appeal set out in Article 2(1) of the UNAT Statute is that only final judgments of the UNDT are appealable. Only when it is clear that the UNDT has exceeded its jurisdiction will a preliminary matter be receivable. Alleged excess of jurisdiction or competence on the part of the UNDT, so as to admit an appeal of an interlocutory order or judgment must be clear or manifest.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Al-Badri

Entity

UNDP

Case Number(s)

2013-531

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

Applicable Law

UNAT Statute

- Article 2.1
- Article 7

Related Judgments and Orders

UNDT/2013/103

2010-UNAT-005

2010-UNAT-062

2010-UNAT-060

2012-UNAT-244

2012-UNAT-230

2011-UNAT-108

2010-UNAT-008

2013-UNAT-300

2013-UNAT-324

2012-UNAT-243