

# **2014-UNAT-484, Abassa**

## **UNAT Held or UNDT Pronouncements**

UNAT considered an appeal of judgment No. UNDT/2013/145. On the issue of whether UNDT erred in law in not receiving the Appellant's application for revision of judgment, UNAT held that it did. UNAT noted that to import into Article 12(1) of the UNDT Statute the limitations presently advocated by UNDT, merely because of the inclusion of the word "executable," would be unduly restrictive and tantamount to a denial of an already narrowly construed remedy and unduly circumscribe the right of access of staff members to UNDT. With respect to the merits of the application for revision, UNAT held that the Appellant did not satisfy the strict requirements of Article 12(1) of the UNDT Statute. UNAT was satisfied that the Appellant's inability to access his UNECA e-mail account could not be said to have been unknown to him at the time the UNDT judgment was rendered, nor could it be said that the "fact" that UNDT sent an e-mail giving the Appellant a period of time to respond to the Secretary-General's Reply on the issue of receivability was unknown to UNDT, although it may have been unknown to the Appellant. UNAT held that there was no merit in the application for revision and dismissed it on its merits. UNAT dismissed the appeal against UNDT/2013/145, save to the extent that UNAT found that UNDT should have received the application.

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested the decision not to select him for a position. In judgment No. UNDT/2012/086, UNDT rejected his application as not receivable ratione temporis. Subsequently, Mr Abassa filed an application for revision of judgment No. UNDT/2012/086. In judgment No. UNDT/2013/145, UNDT rejected the application for revision as not receivable on the basis that the underlying judgment was not an executable judgment.

## **Legal Principle(s)**

Articles 11(3) and 12 (1) of the UNDT Statute provide that there should be a final judgment capable of being the subject of a revision application, rather than the range of UNDT judgments, open to an application for revision, being limited to judgments dealing with the substantive issues of the case. Either party may apply to UNDT for a revision of an executable judgment, due to the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to UNDT and to the party applying for revision, always provided that such ignorance was not due to negligence.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Abassa

## Entity

UNECA

## Case Number(s)

2014-558

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

17 Oct 2014

## President Judge

Judge Faherty

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Judgment-related matters

Revision of Judgment

## Applicable Law

UNDT Statute

- Article 11.3
- Article 12.1

## Related Judgments and Orders

UNDT/2013/145

2011-UNAT-129

2013-UNAT-393

UNDT/2012/086