

2015-UNAT-517, Terragnolo

UNAT Held or UNDT Pronouncements

UNAT held that there was no reason to depart from its prior analysis that the UNJSPF was not part of the Secretariat and neither the Secretary-General nor the executive head of any other member organisation, has authority over the management of UNJSPF or the independence of the Chief Executive Officer of UNJSPF in the administration of its staff. UNAT held that the Secretary-General had no power to interfere or intervene in the election of members to the UNJSPF's staff pension committees; those elections were governed exclusively by UNJSPF Regulations. UNAT held that there was no error in UNDT's finding that the actual eligibility of candidates to represent participants at the UNSPC, including any potential conflict of interest or length of term, was to be determined exclusively under the UNJSPF Regulations and Rules. UNAT held that UNDT erred in finding that the Appellant had legal standing to contest the Secretary-General's failure to act against the alleged illegalities. UNAT did not agree with UNDT that the right conferred on UN staff members pursuant to Staff Regulation 6. 1 to participate in the UNJSPF encompasses a right to proper representation in the UNJSPF governance structure, which is separately governed by UNJSPF Regulations. UNAT held that the decision of the Secretary-General not to investigate the illegalities which the Appellant contested did not directly impact the Appellant's terms of appointment and/or his contract of employment and was not an appealable administrative decision falling within UNDT's jurisdiction. UNAT held that UNDT erred in law in finding that the Appellant's second claim, wherein he contested the failure of the Administration to look into the alleged improprieties he raised, was receivable. UNAT upheld the decision of UNDT that the Appellant's challenge to the Administration's decision to grant time release and other assistance to the staff representation on the UNSPC whom he considered ineligible was not receivable, as the Appellant did not have standing to challenge the release of other staff members. UNAT dismissed the appeal and reversed the portion of the UNDT judgment which found that the Appellant's second challenge was receivable *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to grant time release and related administrative assistance to staff representatives whom he alleged were ineligible to serve on the UN Staff Pension Committee (UNSPC) by reason of the term limits outlined in General Assembly resolution 51/226; the refusal to act against the member he claimed had a conflict of interest; and the refusal to look into the violation of the electoral regulations during the polls. UNDT rejected the application.

Legal Principle(s)

The UNJSPF is not part of the Secretariat and neither the Secretary-General nor the executive head of any other member organisation has authority over the management of UNJSPF or the independence of the Chief Executive Officer of UNJSPF in the administration of its staff.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Terragnolo

Entity

DGACM

Case Number(s)

2014-591

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

United Nations Joint Staff Pension Fund (UNJSPF)

UNSPC (UN Staff Pension Committee)

Applicable Law

GA Resolutions

- A/RES/51/226

Staff Regulations

- Regulation 6.1
- Regulation 8.1

UNAT RoP

UNAT Statute

- Article 8.3

UNJSPF Regulations

- Article 2
- Article 6

UNJSPF RoP

- Annex II

Related Judgments and Orders

UNDT/2014/005

2014-UNAT-447

2010-UNAT-073