

2015-UNAT-555, Pedicelli

UNAT Held or UNDT Pronouncements

UNAT held that the Secretary-General was duty-bound to implement decisions by the ICSC as directed by the General Assembly and that for the most part, such decisions are of general application and therefore not reviewable. UNAT held, however, that where a decision of general application negatively affects the terms of appointment of a staff member, such decision shall be treated as an “administrative decision” within the scope of Article 2. 1 of the UNDT Statute. Based on the staff member’s Personnel Action Forms, before and after implementation of the ICSC’s renumbering exercise, UNAT held that the exercise had a direct adverse impact on her salary. UNAT held that UNDT failed to give any consideration to the staff member’s Personnel Action Forms and thus erred in law and fact in concluding that her application was not receivable. UNAT upheld the appeal, vacated the UNDT judgment and remanded the matter to UNDT.

Decision Contested or Judgment/Order Appealed

The staff member contested the Administration’s decision to implement an ICSC decision which, by lowering the number of GS-levels from nine to seven, had reclassified her post from G-7 to G-6. UNDT found the staff member’s application not receivable since she had failed to challenge an “appealable administrative decision” in that the contested decision was made by the ICSC and the Secretary-General had no discretionary authority in proceeding with implementation of the ICSC’s decision. UNDT further found that the contested decision was not taken solely with respect to the staff member, and that she did not establish that the renumbering exercise gave rise to legal consequences that adversely affected her.

Legal Principle(s)

A decision implementing an International Civil Service Commission (ICSC) decision is of general application and therefore not reviewable. However, where a decision of general application negatively affects the terms of appointment of a staff member, such decision shall be treated as an “appealable administrative decision”.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Pedicelli

Entity

UNEP

Case Number(s)

2014-640

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2014/087

2015-UNAT-526

2015-UNAT-530

2014-UNAT-405

2014-UNAT-481