

2015-UNAT-566, Terragnolo

UNAT Held or UNDT Pronouncements

UNAT held that UNDT did not make an error of law in concluding that the Appellant's application was not receivable *ratione materiae*. UNAT held that UNDT correctly concluded that there was no implied administrative decision to challenge at the time the Appellant filed his judicial review application and that his application was also not receivable on that basis. UNAT found no errors of fact or law by UNDT in awarding costs against the Appellant. UNAT held that the Appellant was well-aware of his obligation to comply with Staff Rule 11.2(a), yet he: (a) intentionally failed to seek management evaluation of a written decision and, nevertheless, filed an application for judicial review; and (b) filed an application for judicial review when it was unreasonable for him to assume there was an implied decision. UNAT held that UNDT did not err when it considered the huge volume of unnecessary documents filed to support the frivolous application as another factor supporting its conclusion that the Appellant manifestly abused the proceedings. UNAT denied the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to conduct an investigation under ST/SGB/2008/5. UNDT found the application not to be receivable *ratione materiae*.

Legal Principle(s)

A request for management evaluation of an administrative decision must be submitted by the staff member prior to bringing an application before UNDT. A staff member must be familiar with the Staff Rules and understand his or her obligation to act in conformity with those rules. The date of an implied administrative decision is based on objective elements that both parties can accurately determine. Where UNDT determines that a party has manifestly abused the proceedings before it, it

may award costs against that party.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Terragnolo

Entity

DGACM

Case Number(s)

2014-660

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Costs

Manifest abuse

Administrative decision

Implied administrative decision

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Secretary-General's bulletins

- ST/SGB/2008/5

Staff Rules

- Rule 11.2(a)

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNDT Statute

- Article 10.6
- Article 8.1(a)
- Article 8.1(c)

Related Judgments and Orders

UNDT/2014/107

2014-UNAT-446

2011-UNAT-177

2014-UNAT-476

2010-UNAT-030

2012-UNAT-273

2013-UNAT-296

2010-UNAT-067

2011-UNAT-184

2013-UNAT-349