

2016-UNAT-625, Mosupukwa

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant had failed to submit his appeal to the AJAB in accordance with the time limits defined in ICAO's Field Service Staff Rules. UNAT held that a submission of an appeal of the administrative decision to AJAB was a mandatory step in the first-instance procedure. UNAT held that it did not have jurisdiction or competence to address the merits of the substantive claims of an appellant which were not considered first by the AJAB as the "neutral first instance process". UNAT further held that the Appellant had failed to comply with a mandatory step of the first instance procedure. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant initially filed an application with UNDT to "document the maltreatment he suffered at the hands of ICAO's Technical Cooperation Bureau during his service and particularly and the trauma as a result of the events" and to seek relief. Upon learning that UNDT had no jurisdiction over cases arising from ICAO, the Applicant filed the same application with UNAT.

Legal Principle(s)

It is within UNAT's proper purview to deliberate upon Advisory Joint Appeals Board ("AJAB") conclusions and recommendations, as the AJAB constitutes the proper venue of "neutral first instance process." Accordingly, there should normally be no need for UNAT to review any evidence other than that previously submitted before the AJAB.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered

Full judgment

[Full judgment](#)

Applicants/Appellants

Mosupukwa

Entity

ICAO

Case Number(s)

2015-730

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

Applicable Law

Agreements, conventions, treaties (etc.)

- Agreement concluded between the UN and ICAO (6 January 2010)

ICAO Staff Regulations

- Regulation 11.1
- Regulation 11.5

Laws of other entities (rules, regulations etc.)

- ICAO Field Service Staff Rules Part VIII

UNAT Statute

- Article 2.10

Related Judgments and Orders

2013-UNAT-376

2012-UNAT-231