

2016-UNAT-644, Survo

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant's argument regarding the time limits was misconceived since UNDT had not declared the application non-receivable because the Appellant had failed to respect the time limits for filing an application, rather it declined jurisdiction on the basis that he had not sought timely management evaluation, i. e. , within the requisite sixty days of the contested decisions, as required by Staff Rule 11. 2(c). UNAT held that the exercise of determining the date of an implied administrative decision should be conducted by determining when the staff member knew or should reasonably have known about the implied decision. UNAT found no error in UNDT's finding that the Appellant had failed to request timely a management evaluation of the contested decisions and that his application was, therefore, not receivable *ratione materiae*. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the non-approval of submitted PAS work plans for 2010/2011 and 2011/2012, in respect of which he never received any formal notification. UNDT rendered a judgment, finding the application not receivable *ratione materiae* in the absence of a timely management evaluation request having been filed.

Legal Principle(s)

In the case of silence from the Administration, a staff member cannot unilaterally determine the date of an implied administrative decision. The exercise of determining the date of an implied administrative decision must be conducted by determining when the staff member knew or should reasonably have known about the implied decision he or she contests.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Survo

Entity

ESCAP

Case Number(s)

2015-856

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Implied administrative decision

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (*ratione materiae*)

Applicable Law

Administrative Instructions

- ST/AI/2010/5

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 8.1(d)(iv)
- Article 8.3
- Article 8.4

Related Judgments and Orders

UNDT/2015/069

2015-UNAT-595