

2016-UNAT-654, Faye

UNAT Held or UNDT Pronouncements

UNAT held that UNDT did not err in fact or in law in finding that the Appellant did not request management evaluation of the disputed decision and that his application was therefore not receivable. UNAT agreed with UNDT that the Appellant did not have standing to challenge a decision affecting his right to consultation as a staff representative. UNAT held that the Appellant had failed to demonstrate any error of law or fact committed by UNDT in arriving at its judgment that his application was not receivable regarding the fact that the contested decision had no direct legal consequences affecting him. UNAT held that the Appellant did not manifestly abuse the proceedings merely by proceeding with his application and set aside the order for costs against him. UNAT upheld in part the appeal to vacate UNDT's order for costs against the staff member and affirmed the UNDT judgment's finding regarding the non-receivability of the application.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by the Chief Executive Officer (CEO) of the United Nations Joint Staff Pension Fund (UNJSPF) to submit budget estimates for the 2016-2017 biennium to the UNJSPF Board on 2 June 2015, without engaging in consultation with staff representatives. UNDT rejected the application on the following grounds: The Applicant failed to request management evaluation of the contested decision; the Applicant did not have standing to challenge a decision affecting his rights as a staff representative; the contested decision did not have direct legal consequences affecting the Applicant. UNDT ordered costs against the Applicant for abuse of proceedings.

Legal Principle(s)

There is no statutory provision or other law which gives UNDT jurisdiction to entertain an application by a staff representative on behalf of staff members. The only recognition given to a staff association in the UNDT Statute is in Article 2. 3, which gives UNDT discretion to permit or deny leave to an application to file a friend-of-the-court (amicus curiae) brief by a staff association. However, one of the essential characteristics of a friend-of-the-court is that he or she is not a party to the case. As held by this Tribunal in Lee (judgment No. 2014-UNAT-481), the key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms and conditions of appointment. That is to say, the administrative decision must have a direct impact on the terms of appointment or contract of employment of the individual staff member.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Faye

Entity

UNJSPF

Case Number(s)

2015-861

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Costs

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (ratione materiae)

Applicable Law

Staff Rules

- Rule 11.2(a)

UNDT Statute

- Article 10.6
- Article 2.3
- Article 8.1(c)

Related Judgments and Orders

UNDT/2015/076

2014-UNAT-481

2015-UNAT-563

2010-UNAT-058

2015-UNAT-566

2015-UNAT-521

2013-UNAT-349

2013-UNAT-345

2013-UNAT-311