

2016-UNAT-672, Babiker

UNAT Held or UNDT Pronouncements

UNAT considered the appeal. UNAT found that UNDT made both factual and legal errors when it concluded that 15 March 2013 was the date on which the Appellant received notification of the administrative decision within the meaning of Staff Rule 11.2(c). UNAT noted that 18 April 2013 was the date on which the Appellant received notification of the administrative decision not to renew her fixed-term appointment, which is when the 60-day period began to run under Staff rule 11.2(c). UNAT noted that the Appellant made her request for management evaluation within the 60 days of 18 April 2013, thus, UNDT erred in finding that the application was not receivable *ratione materiae*. However, UNAT held that UNDT did not err when it refused to grant the Appellant's request for waiver of the filing deadline and an extension of the deadline to 90 days from the receipt of the 20 March 2014 letter. UNAT held that the Appellant should have known that UNDP had no authority to "suspend" the management evaluation process. UNAT also held that the UNDT erred in failing to conclude that the Administration should not benefit from its own advice—even if that advice was misplaced. UNAT also held that only circumstances beyond a staff member's control, that prevented them from appealing in a timely manner, may be considered "exceptional circumstances," so as to justify waiving the statutory time limit. UNAT accordingly held that UNDT correctly determined that the application was not timely and not receivable *ratione temporis*. UNAT dismissed the appeal and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew her fixed-term appointment. UNDT held that the application was not receivable *ratione materiae* and *ratione temporis*.

Legal Principle(s)

An administrative decision not to renew a staff member's fixed-term appointment is perhaps the most significant administrative decision affecting a staff member and is not a decision casually communicated. UNDT and UNAT must strictly adhere to statutory filing deadlines as one of the ways to assure the timely hearing of staff members' cases and the prompt rendering of judgments. Only circumstances beyond a staff member's control, that prevented them from exercising the right of appeal in a timely manner, may be considered "exceptional circumstances" justifying a waiver of the statutory time limit.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Babiker

Entity

UNDP

Case Number(s)

2016-883

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(c)
- Rule 11.4(a)

UNDT Statute

- Article 8.1(d)(i)

Related Judgments and Orders

UNDT/2015/108

2010-UNAT-067

2010-UNAT-029

2011-UNAT-184

2013-UNAT-331

2015-UNAT-520

2014-UNAT-478

2011-UNAT-118
2013-UNAT-335
2014-UNAT-406
2011-UNAT-180