

2017-UNAT-740, Auda

UNAT Held or UNDT Pronouncements

UNAT held that there was no merit to the Appellant's claims that UNDT failed to exercise its jurisdiction or erred in law by using the summary judgment procedure to determine the application was not receivable *ratione materiae*. UNAT held that the application to UNDT did not challenge an administrative decision that was alleged to be in non-compliance with the terms of appointment or the contract of employment of the staff member, rather the Appellant challenged the MEU's wording in a letter to him acknowledging the receipt of his grievance or complaint. UNAT held that UNDT did not err in law or fact resulting in a manifestly unreasonable decision when it found that the Appellant's application was not receivable *ratione materiae*. UNAT noted that if the Secretary-General had requested costs on appeal, UNAT would have granted the request and awarded costs against the Appellant under Article 9(2) of the UNAT Statute, as the Appellant had manifestly abused the appeals process by bringing the patently frivolous appeal. UNAT denied the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision of the MEU to send a letter of acknowledgement including misleading representations about deadlines for filing an appeal. The Secretary-General filed a Motion for Summary judgment on the ground that the application was not receivable *ratione materiae*. In judgment No. UNDT/2016/107, UNDT granted the Motion on the ground that the application was not receivable *ratione materiae*.

Legal Principle(s)

Summary judgment is an appropriate tool to deal with issues of receivability. In assessing its own competence, UNDT can choose to proceed by way of summary

judgment without taking any argument or evidence from the parties, as the UNDT Statute prevents UNDT from receiving a case that is not receivable. When the Management Evaluation Unit (MEU) issues a “decision” in response to a grievance or complaint, it is not an administrative decision subject to judicial review by UNDT; rather, the judicially reviewable administrative decision is the underlying decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment of the staff member. The Administration’s response to a request for management evaluation was not a reviewable administrative decision.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Auda

Entity

DGACM

Case Number(s)

2016-967

Tribunal

UNAT

Registry

New York

Date of Judgement

31 Mar 2017

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Manifest abuse

Administrative decision

Definition

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

UNAT Statute

- Article 9.2

UNDT RoP

- Article 9

Related Judgments and Orders

UNDT/2016/107