

# 2017-UNAT-803, Kalashnik

## UNAT Held or UNDT Pronouncements

UNAT held that a response (or non-response) to a request for management evaluation is a decision or action of a complementary nature, lacking in the qualities of finality and consequence, and thus will not constitute an administrative decision that is alleged to be in non-compliance with the terms of appointment or contract of employment as contemplated in Article 2(1) of the UNDT Statute. UNAT held that UNDT did not err in its finding that the application was not receivable *ratione materiae* and that it hence lacked jurisdiction.

## Decision Contested or Judgment/Order Appealed

In the context of challenges to two decisions canceling job vacancy announcements, the Applicant essentially alleged that his rights to request management evaluation, and to a full, fair and timely consideration of his request in order to correct unlawful decision in a timely manner, had been infringed by the conduct or inaction of the Management Evaluation Unit and the Administration. UNDT dismissed the application as not receivable *ratione materiae*. On the basis that the management evaluation process is directed at a settlement avoiding the judicial review of an administrative decision, and hence does not produce direct legal consequences affecting a staff member's terms and conditions of employment, UNDT held that the Administration was not required to respond to a request for management evaluation, and, additionally, that the Administration's response or lack thereof, to a request for management evaluation, is not a judicially reviewable administrative decision, with the consequence that UNDT lacked jurisdiction.

## Legal Principle(s)

The Administration's response to a request for management evaluation is not a reviewable decision. Only final and consequential decisions ought to be subject to

judicial scrutiny.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Kalashnik

## Entity

OIOS

## Case Number(s)

2017-1088

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Oct 2017

## President Judge

Judge Murphy

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

## Applicable Law

UNDT Statute

- Article 2.1
- Article 8.1(c)
- Article 8.1(d)

## Related Judgments and Orders

UNDT/2017/030