

2017-UNAT-805, Gorelova

UNAT Held or UNDT Pronouncements

UNAT held that the requirements for UNAT jurisdiction were fulfilled. UNAT held that the appeal to AJAB was time-barred and also, as the Appellant failed to request administrative review under ICAO Staff Rule 111. 1(5), the appeal to AJAB was not receivable *ratione materiae*. UNAT held that a later request by the Appellant was not relevant to the question of receivability because although the later request was phrased differently, it was based on the same factual and substantive situation that had already been assessed under her previous, unsuccessful request for review of her post description. UNAT held that the letter conveyed a clear and definite administrative decision with direct legal consequences for the Appellant and that therefore, the time limit to contest the decision began as of the date of receipt of that letter. UNAT held that the appeal rested upon misguided grounds and the Appellant failed to demonstrate that the AJAB committed an error of law when it considered that her appeal was not receivable. UNAT rejected the Appellant's demand for referral for accountability due to the delay in the internal appeal process. UNAT held that there was no need to address the merits of the case. UNAT dismissed the appeal and affirmed the decision of the ICAO Secretary-General.

Decision Contested or Judgment/Order Appealed

ICAO Decision: The Applicant contested the decision to maintain the grade of her post. The ICAO issued a decision concurring with the ICAO Advisory Joint Appeals Board (AJAB) finding that the appeal was time-barred and accepting its unanimous recommendation that the appeal be rejected in its entirety.

Legal Principle(s)

The reiteration of an original administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to statutory timelines; rather,

the time starts to run from the date on which the original decision was made.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Gorelova

Entity

ICAO

Case Number(s)

2017-1090

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Agreements, conventions, treaties (etc.)

- Agreement concluded between the UN and ICAO (6 January 2010)

ICAO Staff Regulations

- Regulation 11.1

ICAO Staff Rules

- Rule 111.1(3)
- Rule 111.1(5)
- Rule 111.1(6)

Laws of other entities (rules, regulations etc.)

UNAT Statute

- Article 2.10

Related Judgments and Orders

2017-UNAT-716

2015-UNAT-557

2016-UNAT-702