

2018-UNAT-826, Ocokoru

UNAT Held or UNDT Pronouncements

The staff member filed an application for execution of judgment No. 2015-UNAT-604 (Ocokoru). UNAT noted that in judgment 2015-UNAT-604, it did not make any order affecting the UNDT judgment that was appealed but simply decided that the Secretary-General's appeal was not receivable. UNAT held that the execution of the UNDT judgment remained within the jurisdiction of UNDT and, as such, it was not competent to grant the staff member's application. UNAT observed that Article 27 (Execution of judgments) of the UNAT Rules of Procedure, when read together with Article 11.4 of the UNAT Statute, leaves no doubt that the judgment referred to in the legislation is a judgment by UNAT. UNAT held that, in this case, an executable judgment by UNAT did not exist and thus Article 27 of the UNAT Rules of Procedure did not apply. UNAT dismissed the application for execution of judgment as not receivable.

Decision Contested or Judgment/Order Appealed

Previous judgment: The Applicant contested the decision to separate him from service. UNDT ordered rescission of that decision and the Applicant's reinstatement. In the alternative, UNDT ordered compensation in lieu of two years' net base salary and awarded a further three months' net base salary for substantive irregularity relating to her complaint of misconduct. UNAT considered an appeal by the Secretary-General and dismissed it as not receivable.

Legal Principle(s)

A UNAT judgment rejecting an appeal against a UNDT judgment as not receivable is not an executable judgment. Therefore, UNAT does not have the competence to grant an application for execution of such judgment. The UNDT judgment remains in force, and the execution of that judgment remains within the jurisdiction of UNDT.

Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Ocokoru

Entity

UNMISS

Case Number(s)

2017-1115

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Execution of Judgment

Jurisdiction / receivability (UNAT)

Applicable Law

UNAT RoP

- Article 27

UNAT Statute

- Article 11.4

UNDT RoP

- Article 32

UNDT Statute

- Article 11.3

Related Judgments and Orders

2015-UNAT-604