

2020-UNAT-1034, El Sehemawi

UNAT Held or UNDT Pronouncements

UNAT held that AJAB's interim report did not constitute a neutral first instance process which included a written record and a written decision providing reasons, fact and law and as such, did not conform to the requirements of Article 2(10) of the UNAT Statute or the Agreement between the UN and ICAO. UNAT held that at ICAO there was no neutral first instance process including a decision. UNAT held that the Secretary-General of ICAO, who issued the contested decision, was not neutral, but a party to proceedings. UNAT held that under such circumstances it was not satisfied that the essential elements of a neutral first instance process were present to have constituted a decision that could be appealed to UNAT. UNAT remanded the case to AJAB for a neutral first instance process producing a binding decision with reasons, a statement of the relevant facts, and the relevant law.

Decision Contested or Judgment/Order Appealed

Mr. El Sehemawi contested the decision of the Secretary-General of ICAO to concur with the findings of the Advisory Joint Appeals Board (AJAB) that Mr. El Sehemawi had not identified an administrative decision capable of being reviewed.

Legal Principle(s)

A neutral first instance process that includes a written decision must exist in order to constitute a decision that is appealable to UNAT.

Outcome

Case remanded

Full judgment

[Full judgment](#)

Applicants/Appellants

El Sehemawi

Entity

ICAO

Case Number(s)

2019-1332

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Jun 2020

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Jurisdiction / receivability (UNAT)

Appeal

Applicable Law

Agreements, conventions, treaties (etc.)

- Agreement between the UN and ICAO (December 2009/January 2010)

Laws of other entities (rules, regulations etc.)

- ICAO Service Code

Staff Rules

- Rule 111.1

UNAT Statute

- Article 2.10

Related Judgments and Orders

2019-UNAT-958

2019-UNAT-957

2019-UNAT-949