

2020-UNAT-986, Sawenja

UNAT Held or UNDT Pronouncements

On the termination decision, UNAT affirmed UNDT's decision that an individual contracted under an ICA was not a staff member and therefore had no standing before UNDT. UNAT referred the matter of the lack of judicial recourse for individual contractors to the attention of the President of the General Assembly for consideration and possible action. On the decision to recover monies, UNAT noted that, while management evaluation was not required to appeal the imposition of a disciplinary measure, such an argument was not valid in this case because the recovery of monies was not a disciplinary measure, but rather an administrative decision for which management evaluation was a mandatory first step. UNAT held that the Appellant failed to comply with the requirement to request management evaluation before filing his application with UNDT and UNDT did not fail to exercise its jurisdiction in not considering his application. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant, a former UNDP staff member, contested both the decision by UNOPS to terminate his individual contractor agreement (ICA) and the decision of UNDP to recover money from him. On the termination decision, UNDT found that his application was not receivable as he was not a staff member of UNOPS or any other entity of the Organisation and therefore had no locus standi before UNDT. On the decision to recover money, UNDT found that his application was also not receivable, because he, as a former UNDP staff member, had failed to request management evaluation of the contested decision.

Legal Principle(s)

Neither UNDT nor UNAT has jurisdiction to waive deadlines for the filing of requests for management evaluation, or to grant any exceptions to this requirement.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Sawenja

Entity

UNOPS

Case Number(s)

2019-1288

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Personal (ratione personae)

Subject matter (ratione materiae)

Applicable Law

Staff Rules

- Rule 10.2

UNDT Statute

- Article 3.1

Related Judgments and Orders

UNDT/2019/082

2014-UNAT-402

2016-UNAT-695

2013-UNAT-349

2015-UNAT-521

2016-UNAT-699

2013-UNAT-293

2016-UNAT-654

2011-UNAT-171

2018-UNAT-871