

2020-UNAT-987, Avramoski

UNAT Held or UNDT Pronouncements

UNAT held that there was no evidence before UNDT that the EOD date or the refusal to amend it had a direct impact or legal consequence on the Appellant's terms of appointment or contract and therefore, it was not an administrative decision. UNAT held that UNDT erred in finding the application was receivable based on the relevant administrative decision being the refusal to amend the EOD date. UNAT held that UNDT was correct in dismissing the application as beyond its temporal jurisdiction, as the Appellant's application to UNDT was filed more than three years after the impugned decision and the EOD date. UNAT held that UNDT should have dismissed the application on receivability *ratione materiae* as both the entry on duty date and the subsequent refusal to amend it were not administrative decisions. UNDT did not err in dismissing the application on receivability *ratione temporis* as it did not have jurisdiction to review the decision in 2008 to reappoint, and not reassign, the Appellant and the subsequent EOD. UNAT dismissed the appeal and affirmed the judgment of UNDT in part.

Decision Contested or Judgment/Order Appealed

The Applicant disputed her entry on duty (EOD) date for her reappointment with UNLB, which was recorded as 2 September 2008, and requested that it be amended to 28 February 2000 (the date that she was initially appointed to UNTAET). UNDT held that, although the Applicant had requested a timely management evaluation of the decision refusing to change her EOD date, the underlying decision of 2008 to enter 2 September 2008 as the EOD date was outside of the UNDT's temporal jurisdiction. UNDT dismissed the application.

Legal Principle(s)

The party in whose favour a case has been decided is not permitted to appeal against the judgment on legal or academic grounds; a judgment can contain errors of law or fact, even with regard to the analysis of the tribunal's own jurisdiction or the competence and yet, it may still not be appealable. UNAT has the authority to review errors of jurisdiction by the first instance tribunal regardless of who raised the issue. The key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms and conditions of appointment; the administrative decision must have a direct impact on the terms of appointment or contract of employment of the individual staff member.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Avramoski

Entity

MINUSCA

Case Number(s)

2019-1289

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Temporal (ratione temporis)

Applicable Law

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2019/085

2015-UNAT-568

2019-UNAT-906

2014-UNAT-481

2010-UNAT-058

2011-UNAT-133

2017-UNAT-791

2011-UNAT-134

2014-UNAT-466

2010-UNAT-048

2010-UNAT-077