

2021-UNAT-1101, Testargachew Zewdie Kebede

UNAT Held or UNDT Pronouncements

UNAT held that UNDT erred in law in stating that it had no jurisdiction as Mr Kebede's claim concerned the internal affairs of the staff union, and therefore, an area protected from employer interference. UNAT held, however, that error was without consequence because Mr Kebede's claim for compensation was otherwise time-barred per Staff Rule 3.17(ii). UNDT also erred in finding that Mr Kebede's application for a transfer was not receivable for lack of jurisdiction.

Decision Contested or Judgment/Order Appealed

The decision to reject i) Mr Kebede's request for compensation for additional duties and tasks exceeding the scope of his functions as a team assistant and ii) his request for transfer from the Staff Union to another unit or division of ECA.

Legal Principle(s)

When a staff member, who is allocated to a staff union, requests the Secretary-General to pay compensation because he or she has carried out additional tasks exceeding his or her job description, this is a matter between the staff member and the Secretary-General, which is no internal matter of the staff union. While the Secretary-General, when examining the claim, will most probably ask for information and the staff union's opinion on the matter, the request itself does not touch internal Staff Union affairs. A staff member who has not been receiving an allowance, grant or other payments to which he or she is entitled shall not receive retroactively such allowance, grant, or payment unless the staff member has made a written claim within one year following the date on which the staff member would have been entitled to the initial payment. Mr Kebede's request for transfer from the Staff Union to another unit or division of ECA is not and cannot be an internal matter of the Staff Union because the Staff Union has no such authority.

Outcome

Appeal granted in part

Outcome Extra Text

Appeal granted in part, Judgment No. UNDT/2020/078 was vacated, and Mr Kebede's transfer request was remanded to UNDT for a decision on the merits.

Full judgment

[Full judgment](#)

Applicants/Appellants

Testargachew Zewdie Kebede

Entity

ECA

Case Number(s)

2020-1420

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Mar 2021

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Applicable Law

Staff Rules

- Rule 3.17(ii)

UNDT Statute

- Article 8.1(d)

Related Judgments and Orders

UNDT/2020/078

2017-UNAT-804

2016-UNAT-707

2010-UNAT-051

UNDT/2013/109