

2021-UNAT-1132, Mazen Qazzem

UNAT Held or UNDT Pronouncements

UNAT agreed that the time limit for requesting management evaluation against an administrative decision starts once a staff member has been notified of the decision in writing and in clear and unequivocal terms, which in this case was 18 September 2018. UNAT also agreed that the subsequent communications were mere reiterations of the prior decision, and a staff member cannot reset the time for management review by asking for a confirmation of an administrative decision that was communicated to him earlier. The date cannot be unilaterally set by the staff member, and as such, it cannot be the date the staff member “realized” the decision was final. UNAT thus dismissed the appeal finding the determining date for the request for management evaluation is the date on which the staff member was informed of the decision.

Decision Contested or Judgment/Order Appealed

Following a restructuring exercise, UNDP sent a “no-change letter” to a staff member stating there would no change to his functions or to the location of his post. This was communicated on 18 September 2018. The staff member signed the letter and sent it back to the Administration. From October 2018 until April 2019, the staff member sent various emails to the Administration questioning the location of his post or why he could not perform certain functions set out in his job description. The Administration intermittently responded there was no change to the staff member’s functions. On 8 May 2019, the Administration sent another email confirming once again there was no change to the staff member’s post. According to the staff member, it is on this date that he realized that the Administration’s decision was final. The staff member filed a request for management evaluation on 19 June 2019, which the Administration rejected finding it irreceivable as it was time-barred. The UNDT found the determining date was 18 September 2018 when the staff member was informed that there would be no changes to his post. The tribunal explained that the many reiterations of the 18 September 2018 decision did not give rise to a

new challengeable decision, resetting the clock for management evaluation.

Legal Principle(s)

Article 8(1)(c) of the UNDT Statute provides that an application is receivable only if an applicant has submitted the contested administrative decision for management evaluation, where required. If a staff member fails to submit a request for management evaluation timeously, the request will not be receivable by the MEU, and the UNDT will lack jurisdiction to hear and determine the application as a mandatory condition precedent would not be fulfilled. Article 8(3) of the UNDT Statute provides that UNDT has no jurisdiction to suspend or waive the deadlines for management evaluation. The time limit for requesting management evaluation starts once a staff member has been notified of the decision in writing and in clear and unequivocal terms. A staff member cannot reset the time for management review by asking for a confirmation of an administrative decision communicated to him earlier. A staff member cannot unilaterally determine the date of an administrative decision, based on the date he realizes that a decision is final.

Outcome

Appeal dismissed on merits

Outcome Extra Text

The appeal is dismissed, and the UNDT Judgment on receivability is affirmed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Mazen Qazzem

Entity

UNDP

Case Number(s)

2020-1436

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Jun 2021

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Management Evaluation

Time limit

Applicable Law

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 8.1(c)
- Article 8.3

Related Judgments and Orders

UNDT/2020/099