

2021-UNAT-1161, Asr Ahmed Toson

UNAT Held or UNDT Pronouncements

UNAT held UNDT erred in law with regard to its finding that the second decision to renew the Appellant's fixed-term appointment superseded the first decision to renew his appointment (the challenged decision). Nevertheless, UNAT held that this finding was not dispositive of the appeal in the Appellant's favour, as his application was not receivable on the grounds of another basis of mootness. UNAT held that the contested decision to renew his fixed-term appointment by three months instead of two years did not constitute an appealable administrative decision for the simple reason that the decision advantaged him by adding, in total, three months to his last fixed-term appointment. UNAT held it was unnecessary to examine the other grounds of appeal advanced by Mr. Toson. On the question of whether the UNDT Judge should have recused herself from the hearing, UNAT held that it would not permit the issue to be raised for the first time on appeal, whilst stating that it did not find that the Judge in question had, or appeared to have a conflict of interest preventing her from independently and impartially adjudicating the case before her. UNAT dismissed the appeal and upheld the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

Mr. Toson contested the decision to renew his fixed-term appointment by three months instead of two years. UNDT found the application was not receivable.

Legal Principle(s)

An appealable administrative decision is a decision whereby its key characteristic is the capacity to produce direct legal consequences affecting a staff member's terms and conditions of appointment. When the contested administrative decision ceases to have any legal effect, the decision has been rendered moot and there is no longer a live issue upon which the UNDT or UNAT is competent to pass judgment. Just as a

person may not bring a case about an already resolved controversy (res judicata), so too he or she should not be able to continue a case when the controversy is resolved during its pendency.

Outcome

Appeal dismissed on merits

Outcome Extra Text

N/A

Full judgment

[Full judgment](#)

Applicants/Appellants

Asr Ahmed Toson

Entity

UNFPA

Case Number(s)

2020-1498

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Oct 2021

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Non-renewal

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNDT RoP

UNDT Statute

- Article 2.1
- Article 4.9

UNRWA Area Staff Circulars

Other UN issuances (guidelines, policies etc.)

- Code of Conduct for the Judges of UNDT and UNAT

Related Judgments and Orders

2020-UNAT-1073

2020-UNAT-1004

2019-UNAT-967

2017-UNAT-763

2016-UNAT-708

2016-UNAT-709

2017-UNAT-742

2020-UNAT-1055

2016-UNAT-626

2010-UNAT-049